

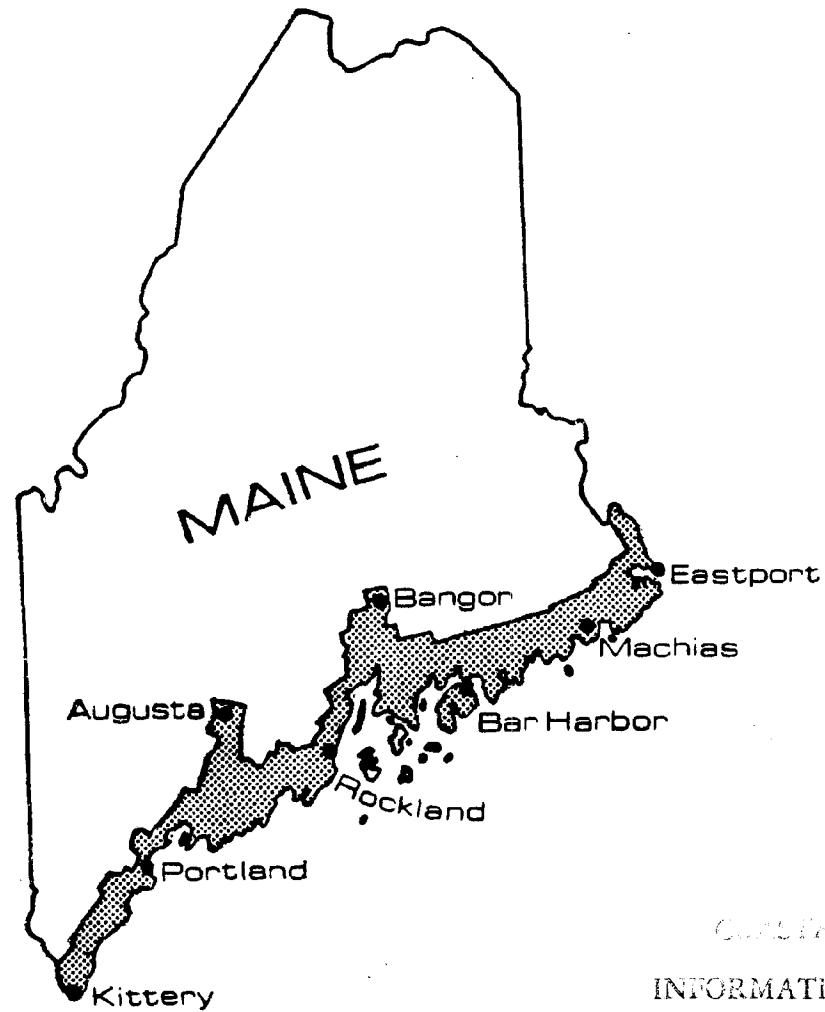
# Maine's Coastal Program

V6

PROGRESS REPORT

Period Ending October 31, 1987

Maine Coastal Zone Management Program



INFORMATION CENTER

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Department

Maine State Planning Office

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MAINE'S COASTAL PROGRAM

Progress Report

August, September, October, 1987  
CZ063 (1987-88)

May through October, 1987  
CZ087 (1986-87)

Submitted to

The National Oceanic & Atmospheric Administration  
Office of Ocean & Coastal Resource Management  
Washington, D.C. 20235

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## COASTAL ISSUES & ACCOMPLISHMENTS<sup>1</sup>

### o Funding & Strategy for Public Land Acquisition

Maine voters on November 3, 1987 approved a \$35 million general fund bond issue to finance the acquisition of land for conservation, outdoor recreation and wildlife (as referred by the Legislature in LD 1027 [P&S Law 73]). Acquisitions are to be sites with outstanding recreational, scenic, natural or wildlife values. Proceeds of the bond issue go to the Land for Maine's Future Fund, established by LD 1341 (PL 506), for allocation to State agencies and cooperating entities (private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board). The legislation directs the Board to report to the Legislature by September, 1988 with an assessment of the State's public land acquisition needs, and a strategy and guidelines for allocating the proceeds of the Fund. The SPO and other state agencies are to provide staff support and assistance.

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<sup>1</sup> See Exhibit D-1 in Appendix D, Results of the 1987 Legislative Session, for additional information on legislative actions.

The 1987 Legislature also established the Maine Commission on Outdoor Recreation to examine the outdoor recreation needs of the public and to determine whether current public policies properly address those needs. A preliminary report is required by December 15, 1987, and a final report with implementing legislation by January 15, 1988.

- o **Funding for Sewage Treatment Facilities and for Cleaning Up & Closing Solid Waste Landfills**

Maine voters on November 3, 1987 approved an \$8.3 million general fund bond issue for construction of treatment facilities throughout the State (as referred by the Legislature in LD 531 [P&S Law 54]). An additional \$8 million bond issue to clean up and close solid waste landfills that pose a hazard to ground water quality and public health was also approved (LD 1356 [P&S Law 70]). Funds are to be expended by the DEP for site evaluation and planning and municipal implementation grants.

- o Establishment of a Study Commission on Land Conservation & Economic Development

The 1987 Legislature created a 9-member Maine Commission on Land Conservation & Economic Development, drawn from its joint Standing Committees on Energy & Natural Resources and Taxation. The Commission is charged with reviewing recent growth management studies; studying the relationship between quality of life in Maine, economic development, rapid growth in land use pressures, and the well-being of the environment; holding hearings in all regions of the State; and reporting to the Legislature by February 15, 1988. Staff assistance is provided by the SPO, DECD, and DEP as well as the Legislative Office of Policy and Legal Analysis. See Exhibit D-2 for a summary of proposals on growth management issues submitted to the Commission in early November by nineteen different groups and individuals, including the SPO.

- o Establishment of a new Office of Community Development

In a move to strengthen and integrate Maine's economic and community development policies and programs the 1987 Legislature created a new Department of Economic & Community Development. One Office of the Department,

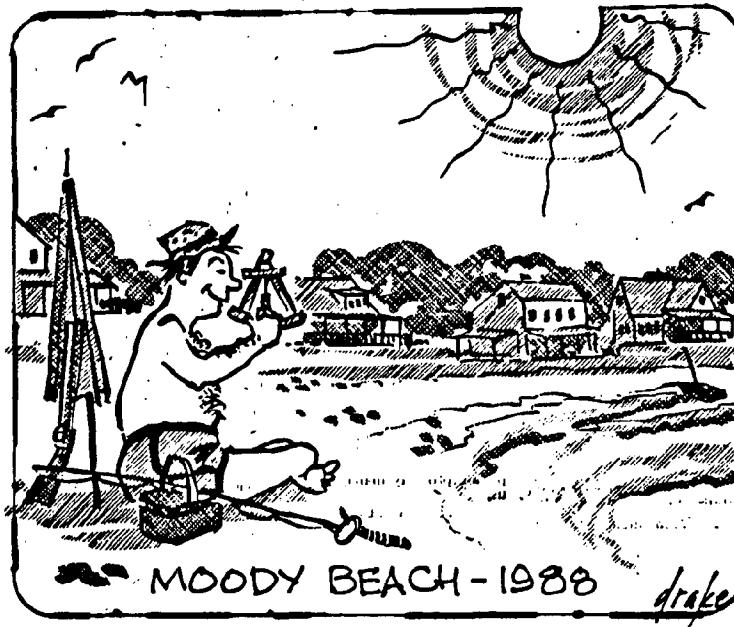
the Office of Community Development, consolidates the administration of Coastal grants, regional planning grants, community development Block Grants, and technical assistance to localities for the purpose of developing local plans and regulations in compliance with State mandates for land use planning, and encouraging economic growth while maintaining quality of life. (See LD 1808 [PL 534].) The shift of responsibilities from the State Planning Office was effective October 1, 1987.

- o **Coastal Access: The Wells Case**

Controversy and questions over the Superior Court decision in the Moody Beach case in Wells overshadowed all other coastal access concerns. The clippings following explain the situation.

- o **Growth Management: A Continuing Issue**

"Guiding Growth: the Maine Challenge," a 20-minute narrated slide program on growth management, was completed and shown in many communities the length of the coast and in several inland cities and towns during the fall. It will be used this winter as part of a publicity effort promoting the administration's growth management legislative initiative. (See Task 4.B.2 in



Coast Star 9/30/87

## Surf's still up for beach serfs

Sure, it may be a bit more cumbersome than it used to be, but the lowly general public can continue to sunbathe, swim or toss a Frisbee at Wells' Moody Beach.

All it will take is a little creativity.

While owners of prime beachfront cottages quietly celebrate, while tax-paid lawyers wring their hands over their next move, lovers of sand and sea need only read last week's decision by Superior Court Justice William S. Brodrick for themselves to recognize that their options are many.

In a nutshell, Brodrick concluded that life on mile-long Moody Beach has not changed enough in the past three and a half centuries to alter a law limiting public access to the area to the purposes of "fishing, fowling and navigation." In siding with a group of property owners, Brodrick reasoned that the Puritans who wrote the law "meant just that and nothing more."

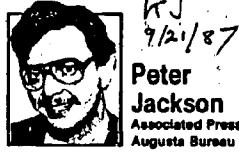
Yet exactly what that 1648 ordinance means continues to be refined — and occasionally expanded — by the Maine courts. Besides, we are on the cutting edge of legal precedent here; certainly a little experimentation cannot hurt.

About the only thing clear from Brodrick's ruling is that you cannot with malice aforethought spread out a blanket, open an umbrella, slather your body with suntan oil, lie down and doze off on Moody Beach if the owner of the cottage immediately behind you objects.

Chances are you could drag your gear over to the next strip of sand and find a more accommodating beach baron, one who doesn't mind that the serf's up.

But why bother? The ruling itself leaves open abundant possibilities.

Just imagine how peaceful your day on the beach could be if, along with blanket, umbrella, suntan lotion, pail and shovel, you



### CAPITOL COMMENTARY

brought:

— A fishing rod. Probably the simplest solution of all. The Maine supreme court has already expanded the term "fishing" to include the recreational variety. Because few anglers ever catch a fish in the first place, it would be a cinch to explain why you're putting on suntan oil, lolliing around on a blanket or flipping a Frisbee with your friends: Just point to your line in the water and say you're waiting for a nibble.

— A boat. This need not be a Boston Whaler or even a john boat. A windsurfer or even one of those tiny plastic tubs that kids like so much should do the trick. Again, the state supreme court is on your side, having interpreted the Puritan mandate to include recreational boating and mooring boats in the intertidal zone. At low tide, tie your craft to a stone on the sand and stretch out next to it. If anybody asks what you're doing, tell them your boat is beached and that you're simply making sure it doesn't get stolen while the tide comes in — an excuse good for up to six hours at a time.

— A shotgun. This option is a little more dangerous and, of course, could only be used during approved bird-hunting seasons. It also would disturb the fishermen and boaters sprawled out on their blankets

because you would be obliged, at least every now and then, to fire a round to convince everyone that you're really out there hunting.

— Two or more cows. Brodrick said the 1648 law and common practice at the time permitted driving and resting herds of cattle along the beaches, even though the practice did not continue long enough to be formally recognized by the courts as a common right. Reviving the cattle drives surely would give new meaning to a day on the beach, and it couldn't hurt Maine's farming community.

Naturally, outsiders are not the

**The 1648 law and common practice at the time permitted driving and resting herds of cattle along the beaches, even though the practice did not continue long enough to be formally recognized by the courts.**

**Reviving the cattle drives surely would give new meaning to a day on the beach.**

only ones who will have to change their ways. Moody Beach property owners themselves may need to carry identification down to the waterside, or perhaps wear a special tattoo, to assert their rights.

Thank goodness everyone has the winter to get adjusted.

# Mainers see private beach access evaporating

By CHRISTINE KURKA  
York County Bureau

Mainers in shorefront towns for years have considered privately owned beaches accessible to them. But perhaps not anymore.

## Judge strips public's right to swim at Moody Beach

By DENISE LAYFIELD  
Associated Press Writer

on the steps of the Maine Supreme Court

with trash.

MAINE JOURNAL

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By CHRISTINE KURKA  
York County Bureau

**Y**ork considers public access

"This is a terrible blow to access restricted to the handful of public beaches in southern Maine," said Sidney St. F. Thaxter, president of Vacationland, Inc., which owns Brodick's decision to keep public access to its private property skirts most of its state-owned land.

He contends the public

is not between rich

people on beaches

and poor tourists who are given the beach.

Given how Main

is between tourists who are crowding Maine's public beaches, he added.

People on the beach

are being over-

whelmed by develop-

ers, he said.

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## On the beach

The recent superior court decision against public use of privately owned Moody Beach in Wells should be heeded as an amber light by Maine residents who are concerned about the changing face of the land in this state and the higher attitude of many of today's landowners.

After a month-long trial, Superior Court Justice William S. Broderick ruled last week that the public's right to use Moody Beach was limited to the Massachusetts Colonial restrictions of "fishing, fowling and navigation" in the intertidal zone — that part of the beach below the high-tide mark.

Moody Beach is a major decision, further defining the relationship between the people and the land. It may not have been the intention of the early settlers in this region, and the public today has no legal right to spend the day at the beach, between tide and dunes at the foot of someone's posted private property.

Maine Attorney General James Tierney says there is "no doubt that landowners won a very significant victory" in the Moody decision. He believes that in the future, on these strips of beach that were formerly a legal no man's land, the access issue will be decided on a case-by-case, person-by-person basis.

Recent court rulings protecting the financial interests of landowners also make it incumbent on towns to study the means they are using to protect such property. For example, officials are unsure of the exact impact on zoning controls of a recent U.S.

Supreme Court ruling that says landowners must be compensated when zoning denies them the use of some of their property even temporarily. The ruling raises concerns about the cost to the taxpayer of developing moratoriums, resource protection zones and similar limits.

More recently the court produced another ruling that may limit the efforts of communities to force landowners to grant access to the state's scarce sand beaches. It bars required public access across private beach-front property without compensation. The ruling brings into question efforts by some communities to guarantee access to beaches. Only about 3 percent of Maine's beaches are actually publicly owned.

Development pressure has been identified in the media primarily with southern Maine. But it's clear the problem is headed north and east even if the deluge is only beginning. The issues are diverse — everything from paying an access fee to previously open wildlands owned by paper companies, to protecting scenic gems like Donnell Pond, to pollution of fisheries.

The solutions are complex, certainly

more complex than a \$35 million bond issue can accomplish. They involve striking a proper balance between controls and private land rights. But acquisition of more public land is a step in the right direction.

## Public access

Development can mean profits or environmental degradation, depending on which side of the fence one is sitting. But of all the worries the word provokes these days, the loss of access to prime territory is probably No. 1 in the minds of most Mainers whose fathers and forefathers were able to roam through the state's vast expanses of wild and scenic lands unimpeded a few decades ago.

This fall, citizens will have the opportunity to approve a \$5 million bond issue to acquire public lands over the next five years. The reasons for passage are compelling to anyone who has read the headlines in the state's newspapers in the last few weeks. Development is nothing new. But developments that threaten to cut off access to heretofore publicly accessible scenic and wild lands are increasingly demonstrating the extent of the problem. Here are some examples from the NEWS' readership area:

- In Franklin, Patten Corp., a land development company, has acquired 1,400 acres around Donnell Pond near Acadia National Park. The purchase includes eight miles of shoreline. The area around the pond is considered such a scenic gem that the federal government once considered giving it national park status, and more recently the state had been negotiating to buy it from its owner, Prentiss & Carlisle Inc.

- Cutler residents recently lifted a building moratorium without approving any new development regulations. At issue is the future of Western Head and Great Head, including 448 acres and 17,500 feet of ocean frontage overlooking Cutler Harbor, which an Ellsworth developer has targeted. Besides loss of the land, one of the last examples of unspoiled coastline, local people have expressed fear of pollution in the harbor.

- In Cherryfield, concern is being expressed over the future of "The Crotch," a large tract of undeveloped land at the junction of the Narraguagus River and the river's western branch. A total of 2,000 acres in the area are available for purchase from

before, and the state's population will continue to increase. More people means more pressure on the land, more fences, and a much lower tolerance for differing land-use values. Maine people were spoiled by the traditional laissez-faire attitude of the paper and forest products industry. There was always a place to hunt, tent or just tramp. In less congested days, even most small landowners shared their woods and fields with the public. Sadly, those days rapidly are passing into history.

The lesson of Moody is that the people of the state have a choice. The landscape is changing, whether they like it or not. The choice is coming down to having something, by acquiring more public land, or eventually having nothing after the public birthright has been totally eroded.

Some Mainers still cling to the notion that the choice is between the way things were — with the open fields, unimpeded access, and benevolent private landowners — and a new era of state ownership and management. If that were the case, the choice would be easy. The old way was best. But it is disappearing, forever.

Admittedly, the state has done an im-

peccable job of managing public lands, and in at least one recent instance, a major land developer has shown encouraging sensitivity to the problem of access. The Patten Corp. ran into a wall of public opinion in Cherryfield with its proposal to develop a huge tract near The Crotch on the Narraguagus River. Instead of bulldozing ahead with its plans, the company recognized the more lasting and important value of public relations and cooperation. To the delight of many Maine people this week, it sold 1,150 acres of The Crotch to the state.

A little piece of the total birthright has been preserved. But it required more than a half million dollars and the support of two powerful but unpredictable ingredients: public pressure, and the enlightened self-interest of a corporation.

As people ponder the value of the \$35 million bond issue this fall, they should remember Moody Beach. The Crotch, and the amber light.

Appendix A.) The growth management issue continues to be highlighted in the media, as attested by the clippings on the land subdivision activities of the Patton Corporation and the State's role in local planning.



# MAINE TIMES

## INVESTIGATIVE REPORT

# TIMES

VOLUME 15, NUMBER 46

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FOR THE WEEK BEGINNING AUGUST 21, 1987



## CARVING UP THE COUNTRYSIDE

When the Patten Corporation is done with Maine, the place will be in pieces.

## OPINIONS

### *It's time for some shark repellent.*

The Patten Corporation is different from other speculators who have come and gone in Maine. Because of its size, Patten has the ability to have a large impact in a very short time. Slick marketing has left the impression that the company is environmentally conscious, while the evidence suggests that Patten is much more interested in profits than preservation. There is an apt comparison with forestry: Patten is to old-fashioned land speculation what mechanized tree harvesting is to a couple of men with a crosscut saw.

Land speculation on any scale is an outgrowth of our long-held idea that land is simply a commodity. In Maine, we've tampered with this heritage to a small extent through restrictions on land use in environmentally-sensitive areas, but we have left the bulk of the land under the sole control of its owners. We have not, as Maine Times pointed out emphatically in its special issue on development last spring, arrived at a "land ethic" for our state. Every day we wait, we pay a stiff price.

Patten plays on a field with few rules or boundaries. It suggests to out-of-state buyers that Maine's lenient laws will allow them to do what they want with their newly-purchased acreage. In the next breath, it reassures buyers that their interests will be "protected" through restrictions: covenants and a non-profit environmental trust that seemingly would surround the purchaser with private, perpetually-protected parkland. What's the real story here?

Patten's brand of land speculation reminds us of the corporate takeover game. There's money to be made in undervalued assets, whether they be companies in the Midwest or undeveloped real estate in small Maine towns. The State of Maine, like companies that think they're takeover targets, ought to consider "poison pill" strategies to discourage the predators.

Maine Times  
41 Main Street  
Topsham, Maine 04086  
Telephone (207) 729-0126  
or (207) 865-6947

Closing loopholes in the state's subdivision laws would be a start; so would a special tax on the profits from speculative, short-term land sales. Most of all, towns need to work with bona fide land trusts to identify the land they want to preserve. The state should come up with a funding mechanism to pay for that protection before a speculator such as Patten can subdivide the best parts and give towns the leftovers.

Patten plays on fears that wild land is disappearing fast and that investors — usually from other states — had better get theirs while they still have a chance. The fears may be well founded, but buyers who plunk down their money should bear in mind that speculative bubbles have a way of bursting. A jump in the price of gasoline, the deterioration of the highway system, the opening up of recreational or land-speculation opportunities elsewhere, rising interest rates, tax law changes, a decline in Boston's current prosperity — any one of these could sour Patten's stock and its ability to sell its properties.

When the bubble bursts, much of the damage will already have been done. The farms and woodlands will have been subdivided, the roads will have been built, and except for higher taxes on inflated values, much of the value of the land to the local economy will have been lost. Even if it's never built on, the land's new patchwork of owners aren't likely to be interested in farming, timber production or simply letting in the public. Opportunities for other uses that might contribute something to a community will have been lost. That's a farcye from Patten's claim that it's a "smokeless" industry with little tangible impact.

We've made Maine attractive to speculators by continuing to think of land as mere real estate, instead of a precious heritage to be protected for our children. Patten is the inevitable result of this mind-set, and the sooner we understand, the better.

(DDP)

## Appendix A

### STATUS OF GRANT TASKS, CZ063 Award (1987-88)

#### Task 1 -- Improving Program Core Law Enforcement & Technical Assistance

##### A. DEP - Core Law Administration & Enforcement

Complaints, permit applications, compliance inspections, enforcement actions, consent agreements, and licensing and enforcement summaries recorded by the DEP Land Bureau for the three-month reporting period ending October 31, 1987 are given in Tables 1 through 7. There were a total of 189 core law permit applications in the Coastal Area, nearly two-thirds of which were in southern Maine, compared to 195 complaints and 25 compliance inspections. The Wetlands/Sand Dunes Law accounted for 53 percent and the Site Location Law another 30 percent of the permit applications. Numbers of cases generally were somewhat lower than for the February-April and May-July periods. For a more detailed comparison with data for May-July see Exhibit D-6 in Appendix D.

The DEP's progress reports on efforts to improve administration of core laws and gain State funding of DEP positions (as per the Significant Improvement Benchmark for this task), Shoreland Zoning Activities, and other matters are reproduced on the next pages.

##### B. TNC - Improving State Regulation of Areas of State Significance

A contract between the SPO and The Nature Conservancy (TNC) to initiate the conversion of the Critical Areas Program's data base into TNC's Heritage Program computerized data base system was signed in August, 1987, thus meeting the Benchmark for this task. The contract was for \$7,021, supported by \$3,000 in federal Coastal funds and \$4,021 in State general fund monies. Information on National Natural Landmarks, Nominated Areas, and Candidate Areas is to be mapped and entered into the Heritaage Data Base system under this agreement.

Phase I will be completed by December 31, 1987, making the data base available on a dBase III plus disc, in hard copy printouts, and on TNC's office base maps. The SPO and TNC anticipate amending the contract in December to permit computerization of the Register of Critical Areas (585 areas) and the Qualified-but-Unregistered Areas (48 areas). This task, referred to as Phase II, will be completed June 30, 1988.

Table 1

**DEP COMPLAINTS IN THE COASTAL AREA  
August through October 1987**

<u>Status</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>
Resolved	17	16	11	44
Pending	24	11	43	78
Deadline	8	6	59	73
Total	49	33	113	195

Table 2

**DEP PERMIT APPLICATIONS IN THE COASTAL AREA  
August through October 1987**

<u>Law/Type</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>
Coastal Wetlands	19	21	18	58
Sand Dune	0	0	42	42
Great Ponds	0	0	1	1
Stream Alteration	3	2	8	13
Freshwater Wetland	0	0	0	0
Hydro/Dams	1	1	2	4

Table 3

**DEP COMPLIANCE INSPECTIONS & ENFORCEMENT  
ACTIONS IN THE COASTAL AREA  
August through October 1987**

<u>Region/Statute</u>	<u>Compliance Inspections</u>	<u>Consent Attempted</u>	<u>Agreement Resolved</u>	<u>Pending</u>	<u>Referral To A.G.</u>
Downeast:					
Site Wetlands	2	0	0	0	1
Solid Waste	1	0	3	2	0
	12	0	0	2	0
Central:					
Site Wetlands	3	0	0	1	0
Solid Waste	1	0	0	2	0
	2	0	0	2	0
Southern:					
Site Wetlands	2	5	2	3	0
Solid Waste	0	7	1	6	0
	2	6	1	5	1
Total coastal:					
Site Wetlands	7	5	2	4	0
Solid Waste	2	7	4	10	0
	16	6	1	9	1
Total:	25	18	7	23	1

Table 4

**LICENSING & ENFORCEMENT ACTIVITY IN THE COASTAL AREA**  
**DEP Land Bureau - Jan. 1985 to Oct. 31, 1987**

<u>By Area</u>	1985			1986			1987				
	Jan-March	April-June	July-Sept.	Oct.-Dec.	Jan-March	April-July	Aug.-Sept.	Oct.-Jan. 31	Feb.-April	May-July	Aug.-Oct.
<u>Complaints</u>											
Downeast	10	10	26	21	10	62	28	20	30	75	49
Central	14	29	23	18	15	35	22	32	29	34	33
Southern	51	100	116	65	64	147	80	109	117	120	113
Total	55	159	165	124	83	244	130	161	176	229	195
<u>Permit Applications</u>											
Downeast	14	23	28	34	43	34	20	37	35	35	32
Central	42	40	27	44	58	42	35	70	44	36	38
Southern	119	78	82	64	109	134	98	127	151	140	119
Total	175	141	157	112	216	216	153	234	230	211	189
<u>Compliance Inspections</u>											
Downeast	13	14	36	35	10	22	18	7	15	31	15
Central	9	10	21	18	3	17	—	3	12	14	6
Southern	28	43	14	19	4	17	5	7	3	—	4
Total	50	67	70	78	39	79	23	77	30	45	25
<u>By Law</u>											
<u>Permit Applications</u>											
Site Location Law	44	43	66	68	111	70	52	28	85	54	57
Wetlands Law	111	83	57	69	99	123	91	145	136	118	100
Waterway Conservation	16	5	1	2	—	3	2	3	1	3	4
Solid Waste Management	04	12	13	5	—	—	—	—	—	16	15
Stream Alterations	—	—	—	—	—	14*	8	13	5	20	13
<u>Compliance Inspections</u>											
Site Location Law	23	19	15	10	5	22	5	0	7	5	7
Wetlands Law	5	11	20	17	4	8	1	5	3	7	2
Solid Waste Law	24	37	36	45	8	9	17	12	20	33	16

\* Administration transferred to the DEP from IF&W.  
 25e/bb

Table 5  
 DEP CONSENT AGREEMENTS IN THE COASTAL AREA  
 August through October 1987

D.E.P., referrals to the Attorney General:  
 August-October '87

1. Ellis Equipment & Demolition Removal, Inc.;  
 Arundel; Solid Waste

D.E.P. Consent agreements pending:  
 August-October '87

1. Town of Perry - Perry  
     -Solid Waste
2. Ocean Products, Inc. - East Machias  
     -Protection & Improvement of Waters, Section 413
3. City of Calais - Calais  
     -Solid Waste
4. Lawrence Stanley - Swan's Island  
     -Coastal Wetlands
5. Mill Cove Associates - Boothbay Harbor  
     -Coastal Wetlands Law
6. Town of Boothbay - Boothbay  
     -Solid Waste Law
7. City of Belfast - Belfast  
     -Solid Waste
8. J. Grant Burke Trust - Bristol  
     -Site-Subdivision
9. John McConchie - St. George  
     -Coastal Wetland Law
10. Robert Rosenthal and Bo-Ed, Inc. - Brunswick  
     -Site Law
11. Rebecca Frost, John Furbush, Merritt Shapleigh, Jr. - Elliot  
     -Site Law
12. Kfory - Weinschenk, Inc. - Cape Elizabeth  
     -Site Law
13. John P. Martin - Saco  
     -Coastal Wetlands Law
14. Richard Catir - Scarborough  
     -Coastal Wetlands Law
15. Town of Scarborough - Scarborough  
     -Coastal Wetlands Law
16. Lucien Thibault - Harpswell  
     -Coastal Wetlands Law
17. Swinton Williams - Wells  
     -Coastal Wetlands Law
18. Bruce Publicover - Scarborough  
     -Coastal Wetlands Law
19. Albert Feirah - Kittery  
     -Fresh-water Wetlands Law
20. Frank Thomas - Wells  
     -Stream Alteration Law  
     -Solid Waste Laws
21. Consolidated Excavators - Old Orchard Beach  
     -Stream Alteration  
     -Solid Waste
22. Robert Lavesque - South Berwick  
     -Solid Waste Laws
23. Michael Coggeshall - Wells  
     -Solid Waste Laws
24. Maine Energy Recovery Co. & General Electric - Biddeford  
     -Solid Waste & Site Laws
25. Town of Scarborough - Scarborough  
     -Solid Waste Laws
26. Stanley Douglas - Scarborough  
     -Solid Waste Laws

Table 6

DEP ENFORCEMENT SUMMARIES  
August through October 1987

1. Squirrel Island, off Southport, was found to be operating on illegal solid waste facility. Island residents had established a dump area near the water where, after burning the trash, high tides would wash the residue away. The island, registered as a municipal corporation, was ordered to cease disposal by October 15, 1987 and submit a solid waste management plan to the Department. This plan is to address transfer and recycling of wastes.

2. Saco Mobile Homes, Inc. - Saco

A consent decree has been obtained in this case which the DEP referred to the Attorney General's Office in April 1987. The defendant had illegally disposed of septage in lagoons on a sand and gravel aquifer. The area has restored and defendant paid - \$4,500.00 penalty.

3. Ocean Products, Inc. - East Machias

A staff person has resolved 2 consent agreements drafted to resolve massive siltation problems during construction of a fish hatchery; these agreements were between the State and Thomas DiCenzo, Inc. and Kleinschmidt Associates. Staff is continuing to negotiate an Agreement with the owners of the facility.

4. Verrtier Construction Company - Brunswick  
Verrtier Construction is proposing to build a 73 unit condominium complex on 35 acres on River Road in Brunswick. The project involves the construction of 1300 feet of new roads, 5000 feet of paved driveways and public water and sewer supplies.  
The site contains 3 freshwater wetlands and is traversed by a tributary to the Androscoggin River along the Southern border.
5. D & J Associates - Old Orchard Beach  
Applicants propose to construct a 7 story, 115 unit condominium building with a 40,573 square feet footprint, making it the second largest condominium project in the town. Issues of sea level rise are still being addressed by the applicants' consultant.
6. Biddeford Pool Associates - Biddeford  
The applicant proposes to divide a 31 acre parcel of land into 43 lots. The property abuts Blideford Pool, a wetland of State and international significance for its value to migratory shorebirds. The project site may also contain an early colonial historical site of State and National significance.  
Based on input from many wildlife and wetlands experts, the Department recommended that a 330-foot wide undisturbed buffer be maintained between the proposed lots and the edge of the abutting wetland. The applicant proposes to maintain a 50 foot wide buffer area.
7. Meeting Developers  
Proposing a five phase Planned Unit Development in Brunswick. Total project size is 193 acres with 151 single family residential lots and 17 attached housing units.
8. Long Wharf Associates - Portland  
L.W.A. has applied for a permit for Long Wharf, a mixed-use development on the Portland Waterfront containing 27 condominiums 180,000 square feet of office space, and 17,000 square feet of retail space, as well as an adjacent 31-space parking garage. Most outstanding issue is visual impact of this development and its consistency with the existing character of the waterfront and Old Port. (Site Location and coastal wetlands).

Project was delegated by Board and denied by Dept. on 10/20/87.

DEP LICENSING SUMMARIES  
August through October 1987

1. Orchard Pines

RJR Associates propose to construct 56 condominium units on 29.8 acres of land on Portland Avenue, Old Orchard Beach. Each building will be a two-story structure containing 4 units with a total footprint of 2060 square feet. All units will have 2 parking spaces.

The Cascade Brook flows through one corner of the property and one half of the property is located over a groundwater aquifer.

The significant issues involved in the project are protection of groundwater quality, surface water quality, and wastewater disposal.

A decision is expected on this project in February or March.

2. Robert Woods York Maine

Applicant sought after the fact approval for project which clearly involved filling and placement of rip rap in a defined coastal wetland area, as evidenced by both vegetation and elevation

D.E.P. staff, D.M.R. and Town of York conservation Committee all recommended denial and restoration of affected area. A consent agreement had been signed earlier this year.

DEP SHORELAND ZONING REPORT  
August-October 1987

The shoreland zoning unit has taken several steps during this three month period to generate greater awareness of the shoreland zoning law and its requirements by municipal officials. First we have begun to work more closely with the State Planning Office (SPO) and the regional councils (RC's) in organizing training programs. We now meet monthly with both SPO and the RC's to deal with training issues. These sessions have helped staff of the Shoreland zoning unit to develop closer working relationships with the RC's. Furthermore these sessions will provide the RC's with greater knowledge of the shoreland zoning requirements and thus will be better able to assist the municipalities in their regions.

A second action that the shoreland zoning unit has taken is to begin publishing the Shoreland and Zoning News. This publication (copies attached) is a bi-monthly news letter which is sent to all organized municipalities in Maine. It includes articles on administering and enforcement of shoreland zoning issues as well as updates in regulatory and statutory requirements. We also address issues which create the greatest confusion among local officials. For example, the November/December issue addressed the subject of constructing new decks on structures which fail to meet required setback requirements. Thirdly, staff participated in the annual Maine Municipal Convention held in Bangor. We organized an informational booth for the exhibit hall. The MMA convention is a three day event attended by hundreds of town officials and is a good forum to present information on shoreland zoning issues.

Another action which was undertaken to increase public awareness of shoreland zoning issues and to obtain greater public input on these issues was the holding of fifteen public meetings throughout the State to gather input toward the upcoming revisions to the State's guideline ordinance. The month of October was dedicated to these meetings which were attended by over 300 people, made up largely of public officials.

As noted above, the Department has begun the process of revising the guidelines ordinance. Significant staff time has been invested in preparing for and conducting the public meetings. Before the meetings were held considerable efforts were made to define the issues of concern and to put these into a format which would generate appropriate discussions at the public meetings. Now that the meetings have concluded we are analyzing those comments and preparing a report for the advisory committee established to assist this office with the review process. The first advisory committee meeting will be held on January 12, 1987.

In other matters we drafted a grant proposal for the Eastern Mid-Coast Regional Planning Commission. That Commission is seeking grant from the Soil and Water Conservation District to draft a layperson's erosion control manual. We are interested in this project because such a guide could be used on a state-wide basis.

We continue to provide day-to-day technical assistance to municipalities and respond to inquiries by local citizens. During the period between August and November of 1987 the shoreland zoning unit responded to approximately 500 telephone inquiries. Most inquiries were requests for information but numerous calls involved complaints of specific shoreland zoning violations or complaints of municipalities failing to properly administer and enforce local ordinances. A partial list of coastal towns which received direct shoreland zoning assistance or enforcement related actions from this unit includes Richmond, Franklin, Beals, Harpswell, Boothbay Harbor, Steuben, Southwest Harbor, Eastport, Lubec, Bristol, Camden, Eliot, Deer Isle, Wiscasset, Owls Head, Tremont, Bucksport, Ellsworth, Lincolnville, Machiasport, Westport and Saco.

The only significant regulatory change occurring during this reporting period was the change in the "clearing" standard contained in the ordinance. Although not yet filed with the Secretary of State (to be completed by January 15, 1988) the "clearing" standard has been amended to prohibit openings to the shoreline greater than 30 feet in width for any 100 feet of shoreline, no matter where measured along the shoreline. The standard was further amended to make it clear that in resource protection districts, the clearing of vegetation is limited to that which is necessary for uses expressly authorized in that district.

Much of the unit's efforts during the next quarter will be focussed on the revisions to the guideline ordinance.

"CZI REPORT"

# Area Citizens Express Frustrations Over Shoreland Zoning Enforcement

By Patricia Ryder

The two worst problems with shoreland zoning in Maine will not likely be addressed by any changes in the ordinances that set standards or such zoning.

That was the conclusion reached by Richard P. Baker, Maine's shoreland zoning coordinator, and about 40 area citizens who met last week at Ellsworth to talk about possible changes in the State's ordinance.

Hancock County residents identified many areas of concern, but repeatedly expressed their frustration with the "top two problems" planning boards face: lack of enforcement and the fact that zoning boards of appeal grant many variances. Variations in the complaint: "we feel like fools, laboring over decisions which are overtured or ignored," were heard from citizens of Blue Hill, Stonington, Orland, Detham, Bucksport and other towns.

Baker suggested that towns take a strong stance to begin with and don't quit with a dollar penalty." He encouraged towns to not only enforce laws (which, according to discussion participants, are considered as "costs of development" by many developers), but also to require developers to restore or replant land which has been cleared or changed illegally.

The meeting last week was one of 5 meetings Baker is holding statewide to obtain public comment on Maine's minimum shoreland zoning ordinance. That ordinance contains minimum standards for and use activities within 250 feet of the normal high water mark of ponds, rivers, and salt water bodies.

All municipalities in Maine are required to adopt, administer, and enforce a shoreland ordinance at least as restrictive as the State's minimum ordinance. The minimum ordinance has not been updated since 1979.

Baker explained the process of revision: after the public meetings, a 10-12 member advisory committee will be established. Then, smaller working committees will break out from the large committee to study specific areas of concern. Next, proposed amendments will be drafted and public hearings scheduled. Baker said he hoped the new amendments would be adopted by the State in the spring of 1988 and by municipalities in the spring of 1989.

Baker emphasized that changing the ordinance is a "rule-making, not law-making, process."

Some in the audience suggested that more explanation be included in the ordinance, arguing that compliance and enforcement would be more likely if people understood the reasons behind the rules. Said one participant, "Before you ask the towns to enforce the ordinance, give them some reasons. We need to have some 'whereas' clauses to give intent. There isn't enough documentation, and we end up listening to

crazy battles between lawyers making it up as they go along just to beat the system."

Planning board members told Baker of problems with definition of the resource-protected zone. Towns are now required to define the resource-protected zone with federal floodplain maps or a "flood-of-record," but according to many participants, "nobody believes the maps."

Baker added the citizens' concerns to his 22-item list and invited written comments. Comments should be addressed to Richard P. Baker, Shoreland Zoning Coordinator, Maine Department of Environmental Protection.

State House Station 17, Augusta, Me. 04333.

Two differing viewpoints on the results of implementing the shoreland zoning ordinance were among those heard. A planning board member from Blue Hill said, "The ordinance is driving shoreland into the hands of out-of-staters who can afford to live within the rules."

But a Bucksport Planning Board member countered, "I sell real estate and I will say that shoreland zoning is not bringing in outsiders; it's the lack of enforcement of the ordinance and the lower prices of the land compared to other states."

## Shoreland zoning opponents in York argue case

By Nick Cowenhaven

YORK — Small-scale builders, owners of large plots of land, and other opponents of shoreland zoning last week held court on proposed stricter standards. They found the regulations unconstitutional, unworkable,

and many of the opponents of the proposed ordinance objected to the scorn they feel has been directed against them by local environmental advocates.

"I don't appreciate picking up the newspaper and reading how ignorant I am for not being in favor of this," argued Keith Bishop.

The forum was organized by York People for Thoughtful Land

YORK CO. COAST STAR 9/20/87

use, an ad hoc group formed to oppose the proposed ordinance to oppose and counterbalance its supporters: the Residents for Responsible Land Use. The voters will decide the issue by ballot Nov. 3.

At Friday's meeting, opponents of the ordinance said they would stand alongside the Conservation Commission, to stop a developer from building electrician Robert Lavoie said that this measure would hurt only the landowner or two homes a year. "The big guys are going to have biologists and consultants and he's going to walk right over this ordinance," he said.

Conservation Commission members and other supporters of the proposed ordinance also attended the meeting. The session remained generally cordial because there were no undecided voters to persuade among the more than 40 people who attended.

Two former York code enforcement officers spoke against the proposed ordinance.

the Ogunquit CEO, said some delicate areas require protection, but the ordinance lacks strict criteria to guide landowners and officials. "I don't like it because too many different people and agencies can make their own interpretations," he said, "and anybody can interpret it from one case to the next. If it is worthless, change it, fix it, make it better."

Former CEO Richard Mabey agreed to "subjective interpretation," but our short speakers who had agreed to grind against the current ordinance, "he's got what we're here for," he said.

One resident asked whether the proposed rules would require him to hire a "biologist with a PhD," to draft his application to the Planning Board. Another participant raised the question of whether the ordinance would amount to the taking of private property. "The Constitution can't take private property," he said.

Keith Bishop:

Richard Broadbent, the owner of property near Sentry Hill and Woodbridge Road that has both high land and swamp, said he bought the land to protect it from inappropriate development. Now he faces the prospect of losing all rights to develop it since construction may have to be set back 30 feet from the swamp.

"I want to protect it but I want to protect it my way, not their way," he said.

Another who spoke of his respect for the environment was Neil Ramsdell, a builder. He criticized restrictions on woodcutting in the shoreland zone, arguing that deer and other animals feed on the new growth that cutting encourages. "A lot of the people who are against the woodland that other people protect," he said.

Keith Bishop:

however, voters expanded the construction setback on water bodies greater than five acres in size from 75 feet to 250 feet, and in Kennebunk, voters placed tough restrictions on shoreland development while approving cluster development.

Moratoriums in towns facing development pressures continue to sprout like weeds. Yarmouth recently slapped a 90-day building ban on its Main Street zoning district and a 75-day moratorium on its water-oriented commercial district. Union voters extended the town ban on major subdivisions to minor subdivisions, while in Stonington, voters will decide next week whether to enact a one-year building moratorium designed to give town planners time to draft ordinances aimed at controlling subdivision growth and preserving the working waterfront. In central Maine, members of three Fairfield planning panels are nearly ready to submit a subdivision ban to the town council for a vote on August 19.

ZONING MT 7/31/87

## Small town, big ideas

The tiny Washington County town of Northfield (pop. 88) has ended an 18-month-long subdivision moratorium by adopting what one state water quality specialist has called the most progressive land use ordinance in Maine. Jeff Dennis of the state Department of Environmental Protection says the special shoreland zoning adopted by Northfield residents by a vote of 36 to 6 last month assures protection of Bog Lake and other ponds from algal blooms while permitting controlled shoreland front development.

The Northfield ordinance requires minimum shore frontage of 200 feet per lot and encourages

cluster development so that large tracts of land are left undisturbed. Special watershed building controls extend 750 feet from the water's edge, and density is limited to one dwelling per 15 to 20 acres. Voters also gave the planning board jurisdiction over all subdivisions, regardless of lot size. (The state exempts lots of more than 40 acres from local review unless specifically cited by local ordinance.)

The Northfield action comes a year after residents learned that developer James Penick had purchased 2,740 acres with 10 miles of lake frontage in town. The new land-use ordinance contrasts sharply with the vote last month in nearby Cutler, where a comprehensive land use plan and overboard discharge ban proposed in response to developer Norman Langdon's subdivision proposal on Western Head peninsula were defeated. Shoreland protection ordinances also have gone down to defeat this year in the southern Maine towns of York, Wells, and Kennebunkport. In Arundel,

DEP REPORT ON EFFORTS TO SECURE STATE FUNDING FOR  
CZM POSITIONS & TO IMPROVE ADMINISTRATION OF  
CORE LAWS — August—October 1987

DEP FEDERAL CONSISTENCY REVIEW & COORDINATION  
ACTIVITIES — August—October 1987

The Bureau continues to work on ways to secure State funding for those positions. A particular approach has not been chosen as yet, but something will be submitted to the Governor for consideration during the second regular session of the Legislature in 1988.

Work is under way to rewrite the Solid Waste Management Rules (P. & S. Ch. 28); and an internal working group is working on ways to improve the licensing process.

- 08/14/87 Received Federal Consistency Review for Removal of an old pier on Pear's Island Maine by the U.S Army Corps of Engineers.
- 08/20/87 Received Federal Consistency Review for maintenance dredging of the Federal Navigation channel and anchorages in the Saco River by the U.S. Army Corps of Engineers.
- 08/27/87 Received Federal Consistency Review for maintenance dredging by the U.S. Army Corps of Engineers of the Federal Navigation Project in The Pool, Biddeford, Maine.
- 09/01/87 Meeting with John Del vecchio (State Planning Office), William Laflamme (Federal Consistency Coordinator at DEP), and Philip Garwood (DEP Federal Consistency Reviewer) to discuss strategy for early coordination of Federal Consistency Reviews.
- 09/03/87 Federal Consistency Concurrency and Water Quality Certification issued for the Renewal of 5 Regional General Federal Permits in Maine.
- 09/14/87 Federal Consistency Concurrency and Water Quality Certification issued for removal of an abandoned pier on Peaks Island Maine.
- 09/24/87 Meeting with representatives of all other affected Maine State Agencies to discuss Federal Consistency Reviews and the need for early coordination as well as timely processing of agency reviews (Philip Garwood attended as DEP Representative).
- 10/02/87 Federal Consistency Concurrency and Water Quality Certification issued for the Saco River Maintenance dredging project.
- 10/15/87 Federal Consistency Concurrency and Water Quality Certification for the Biddeford Pool maintenance dredging project.
- 10/23/87 Meeting with John Del vecchio (Office of Economic and Community Development), William Laflamme (D.E.P. Federal Consistency Coordinator), David Domine (Land Bureau Licensing Division Director), Philip Garwood (DEP Federal Consistency Reviewer), Paul Pronovost (Chief, Impacts Analysis Branch, U.S. Army Corps of Engineers, New England Division).

"FCREVIEW"

C. DOC - Improving Technical Reviews of Core Law Applications

The purpose of this task is to fund a coastal geologist in the DOC, Maine Geological Survey, to provide technical geologic reviews of coastal projects and technical assistance to the public and to local, state and federal officials. The MGS report on its activities this fall is reproduced below.

D. MMA - Code Enforcement Officers' Training

A contract with the Maine Municipal Association's legal staff for updating the Handbook for Local Code Enforcement Officers and producing a series of Basic and Advanced Code Enforcement Officers Training Workshops was prepared for MMA review prior to signing, as per the project Benchmark.

E. RPCs - Technical Assistance on Core Laws & Local Land Use Studies

Contracts were negotiated with the seven coastal regional councils, thus meeting the Benchmark for this task. A series of seven workshops were coordinated by the councils, with presentations from the SPO, DECD, DOC (LURC), DMR, DEP, etc. Attendance, mostly local officials, varied between thirty-five and sixty. The workshops generated numerous municipal requests for specific technical assistance, mostly relating to the shoreland zoning and subdivision laws. The regional councils provided assistance directly or with the help of other agencies such as the DEP.

**Task 2 -- Local Projects**

A. Coastal Planning Grants

Applications from coastal towns for 1987-88 local Planning Grants were received in mid-September as per the project Benchmark, evaluated, and reviewed and approved by the OCRM in November, thus meeting the Significant Improvement Benchmark for the task. Award letters from Governor McKernan were sent to towns listed on the next page on November 25, 1987.

B. Waterfront Action Grants

WAG guidelines, criteria, etc. were submitted to the OCRM in July, 1987, in advance of the Benchmark date. The SPO received letters of interest from 25 communities by the August 7th WAG deadline. Staff visited each municipality to evaluate the project site and assist local officials with application procedures. Fifteen applications requesting a total of \$466,331 were received by the September 21st deadline. The WAG review committee recommended eight projects as listed in the table below for final review and approval by the OCRM, in accord with Special

Award Condition #18. Several projects which were incomplete as of October 31st will be submitted to the OCRM at a later date.

### Task 3 -- Interagency Coordination

#### A. Federal Consistency

Responsibility for federal consistency coordination was reassigned to the SPO from former SPO staff now in the new Department of Economic and Community Development. Improvements to the federal consistency handbook prior to reprinting were discussed. A meeting of representatives of several State agencies was held on October 13th to discuss federal consistency issues and procedural improvements (including early coordination of State review of federal permits, especially as relating to the Corps of Engineers), and to call attention to the inappropriateness of conditional concurrences. Representatives of a number of State agencies, including several SPO staff, attended the "NED Futures" meeting held by the New England Division of the Corps of Engineers to explore specific suggestions and proposals as to how Corps working relationships with the States can be improved. Other federal consistency activities are indicated on the Federal Consistency Log reproduced below, and in the DEP's quarterly report on federal consistency review and coordination activities reproduced under Task 1A above.

#### B. Coastal Advisory Committee

This Committee was inactive during the reporting period, pending a reconstituting of the parent Land & Water Resources Council by the McKernan administration.

### Task 4 -- Local & State Program Administration

#### A. Technical Assistance & Local Grant Administration

See Tasks 1.E and 2.

#### B. State Program Administration

1. Administration -- Agreements were negotiated with the DEP for Task 1.A, The Nature Conservancy for Task 1.B, the DOC (Maine Geological Survey) for Task 1.C, the IF&W for Task 4.C, and the new Department of Economic & Community Development (DECD) for the accomplishment of Tasks 1.D, 1.E, 2.A, 2.B, 4.A, 5.A and 5.B. A draft "Summary of Accomplishments Resulting from Coastal Planning Grants, 1983 - 1987" was prepared, which will be updated for inclusion in the next Progress Report. In addition, the first draft was prepared of an updated explication of the Coastal Program, tentatively titled: Maine's Coastal Program: A Handbook on Coastal Policies, Laws & Activities.

## STATE OF MAINE

Inter-Departmental Memorandum Date 12/3/87

To <u>Bob Blakesley</u>	State Planning Office
From <u>Steve Dickson</u>	Maine Geological Survey
Subject <u>Summary of CZM/CRN activities at MGS this fall</u>	

Blakesley memo  
Page 2

This memo summarizes my General activities performed this fall and made possible from the Maine Coastal Program Grant to MGS. You may find parts of this summary useful in your report to CRN.

In General the activities include handling and responding to outside inquiries on coastal matters, holding meetings, reviewing coastal zone projects, both state core law and federal consistency types, conducting field visits, as well as providing advice to individuals, municipal, state, and federal agencies. Further work involves presenting materials at workshops, public speaking and writing.

I have kept a detailed record of activities that underestimates the actual number of tasks performed simply because they are not all recorded. On the average, 20 outside (MGS) requests are made to me each month for assistance and information on coastal matters. Ten visitors per month seek maps, coastal air photographs, data, or discussions (excluding map orders) on coastal geology and processes. Two written requests are made per month for information (exclusive of sand dune map orders). In addition to these visits and requests, Joe Kelley has a similar number or more that he responds to via his Dromo office.

Since July 20, 1987, when we began to keep records, 46 orders for sand dune maps have been filled for a total sale of 180 maps. This averages about 42 sand dune maps sold per month.

The following numbers are for the three month period of September through November:

- 35 project reviews, mostly sand dune permits
- 22 requests for individual advice, including BIW, public, and scientists
- 50 state agency requests for discussions of sand dune projects, briefs for commissioners, directors etc. outside MGS and including DEP, SPO, DECID, DOT, DMH, and DOC
- 7 federal agency actions, including some with Senator Mitchell's office
- 3 days of field work and site visits
- 5 days working on coastal hazard mitigation for the 406 Plan
- 3 conferences, including presentations
- 2 workshops
- 1 lecture on coastal processes and coastal zone management

(continued)

**1987-88 COASTAL PLANNING GRANTS**

Municipality	Project Title/Manager	Grant	Local Match	Coastal Access Sites	Jonesport	\$12,500	\$ 6,250
Cape Elizabeth	Harbor Planning	\$10,000	\$10,000	Monhegan	Donald Stewart Sr., Selectman Town Office, Box 301 Cape Elizabeth, ME 04107 Tel: 497-5926	\$ 7,000	\$ 3,500
Cumberland	Engineering Feasibility Study for Stone Wharf on Chebeague Island	\$14,000	\$ 7,000	Willard J. Boynton	Preliminary Planning for Monhegan Wharf and Passenger Freight Building Renovation		
Friendship	Preliminary Planning for Public All Tide Access in Friendship Harbor	\$10,800	\$ 5,400	Mount Desert	First Assessor Monhegan Island, ME 04852 Tel: 594-2932	\$10,500	\$ 5,250
Gouldsboro	Ahti Autio, Waterfront Committee 417 Bradford Point Rd. Friendship, ME 04547 Tel: 832-2337	\$ 2,600	\$ 1,300	Saco	Comprehensive Harbor and Waterfront Strategy and Action Plan		
Hallowell & Chelsea	Public Access Strategy and Action Plan			Stockton Springs	William Cox, Town Manager Town Office Northeast Harbor, ME 04662 Tel: 276-5531	\$ 8,000	\$ 4,000
Jonesboro, Machias Machiasport, & Robbinston	Dorothy Osborne, Planning Board West Gouldsboro, ME 04607 Tel: 963-9931			Sandy Point Beach Action Plan	Peter Morelli, Planner 300 Main Street Saco, ME 04076 Tel: 282-3487		
	Regional Code Enforcement	\$10,500	\$ 5,500	Earl Brooks, Selectman.	Ingrid Bengis, Planning Board PO Box 8 Stonington, ME 04681 Tel: 367-2416		
	Michael Burnett, Director SKP&DC 125 State Street Augusta, ME 04330 Tel: 622-7146			Stonington	PO Box 242 Stockton Springs, ME 04981 Tel: 567-3403	\$ 4,000	\$ 2,000
	Richard Varney, Planning Board Jonesboro, ME 04648 Tel: 434-2641			York	Town Ownership and Public Access Rights, York Harbor Anthony Dater, Planner Town Hall PO Box 9 York, ME 03909 Tel: 363-5497	\$14,200	\$ 7,100

PROPOSED  
FY87 MAINE WATERFRONT ACTION GRANT PROJECTS  
(Submitted to OCRM for review and approval)

TOWN	PROJECT TITLE	COASTAL FUNDING
1. York	Rehabilitation and Expansion of the Town Wharf	\$46,000
2. Scarborough	Town Landing Acquisition Project	50,000
3. Augusta	Riverfront Greenway Footpath	24,931
4. Rockport	FLOATS AND RAMPS AT ROCKPORT MARINE PARK	7,000
5. Vinalhaven	Vinalhaven State Beach Acquisition	50,000
6. Southwest Harbor	Manset Dock Boat Pollution Abatement Facility	5,812
7. Bar Harbor	Harbor Park Development	40,000
8. Machias	Machias Riverfront Park South Side Shorepath	24,000

## FEDERAL CONSISTENCY LOG

<u>Date</u>	<u>Activity</u>	<u>Persons Involved</u>
<b>1987</b>		
June 24	COE meeting in Boston	nobody went
September 1	Meeting with DEP on consistency to plan for October 13 meeting	J. DelVecchio, Katrina Van Dusen, Phil Garwood, Bill LaFlamme
September	Several conversations with Anne Blackburn, COE about Nov. 4 "NED Futures" meeting, discussing mostly state representation at meeting.	Anne Blackburn & Katrina Van Dusen
October 13	Meeting at SPO with all state agencies to discuss conditional concurrences - early coordination	SPO, DECD, DEP, DMR, DOC, & IP&W
October 23	Meeting at SPO to talk about ongoing problems with deadlines, etc. (Peaks Island, Ft. Fairfield)	J. DelVecchio, Phil Garwood, Bill LaFlamme, and Paul Pronovost, COE
November 4	"NED Futures" meeting in Waltham	J. DelVecchio, Jim Bernard, and other Maine State agency representatives
November 9	phone conversation with Karin Tilberg, Maine Audubon about Diamond Cove Associates' (Gt. Diamond Is.) NPDES permit. Follow-up with Charlie Colgan, SPO Phil Garwood, DEP and Jeff Pidot, AG	Karin Tilberg
	Can SPO make a consistency concurrence/non-concurrence on this EPA NPDES permit? No, because DEP water quality certificate already granted; when granted, consistency is assumed. Karin's point: old water quality standards used by State. Also, can "coastal management policy guidelines" be part of consistency review? No, they are not officially part of MCP	
November 9	Someone from Marine Law Institute called on same issue.	
November 9	Cape Arundel ocean disposal site COE working on site designation document EPA is writing EIS; COE will send data in 3 or 4 weeks for technical feedback.	Bill Hubbard, COE
November 9	letter from Zidell, Inc. authority from ICC for barging	Jim Bajec, Project Manager, Regulatory Division
November 23	Mike Keegan, COE called about designation of Bass Harbor dredge disposal site	
November 24	follow-up on above (called Mike back and told him to send map and any other pertinent info.)	Bill LaFlamme, DEP and John DelVecchio, DECD
December 3	Met to discuss federal consistency and rewrite of handbook, and pending projects	Katrina Van Dusen and John DelVecchio
December 7	Phone call regarding Newbury Neck, Surry	Arthur Washburn, HCRPC and John DelVecchio
December 8	letter from COE about plans for Newbury Neck; informed Washburn	

kvd/1/09

The SPO Advisory Bulletin was completely redesigned in a more readable and attractive format with the title "Community Connections;" Volume 1, No. 1, Sept. 1987, was published and distributed to 1200 State and federal officials and key local officials in each municipality. See Exhibit D-4.

2. Public Education Initiatives -- "Guiding Growth: the Maine Challenge," a 20-minute narrated slide program on growth management, was ready for showing by the end of the summer. The show explores the importance of the Maine landscape for the state's people and its prosperity. It identifies parts of the state growing rapidly and how this growth is affecting Maine's natural resources and communities, and asks the viewer to think about the policies Maine needs to guide growth rationally.

"Guiding Growth" was shown in many communities the length of the coast and in several inland cities and towns during the fall. It will be used this winter as part of a publicity effort promoting the administration's growth management legislative initiative.

A Coastal Program staffer acted as Coordinator for the highly successful "Coastweek '87," October 3-12. This entailed encouraging the sponsorship of special Coastweek events, organizing the printing and widespread public distribution of a "Coastweek '87" Calendar, promoting events throughout the state, including a special Coastal Cleanup day, and obtaining extensive radio, TV and newspaper coverage of the celebration.

This is the second year that the SPO served as sole coordinator of both Coastweek and the Coastal Cleanup. Nearly twenty organizations sponsored almost forty diverse events for adults, children and families, touching on cultural and natural history as well as the hot coastal issues of the day. Local cleanups the length of the coast from Eliot to Eastport attracted nearly 800 volunteers, 60% more than last year and 115% more than 1985 (see table of results). Organizers included numerous individuals and organizations, such as Audubon chapters, conservation commissions, land trusts, school groups and Scout Troops. The growing spotlight on the problem of plastic debris in the world's oceans has added a little glamour to mucking about a salt marsh collecting old beer cans and MacDonald's burger containers.

A Coastweek highlight was Sea Fair, a family-oriented day-long festival organized by Maine Audubon. Despite rainy weather over 1,200 people came to the Percy & Small Shipyard in Bath to enjoy music, exhibits, presentations, seafood and boat rides. The Coastal Program sponsored two evening forums on public access.

# SCHEDULE OF EVENTS

## FRIDAY, OCTOBER 2

### School Science and Natural History Enrichment Project

*Rockland, 8:00 a.m. to 5:00 p.m.*

This workshop is open to mid-coast teachers of grades K-12 and their school volunteers. The focus is on using the local environment as a teaching resource and as a basis for scientific inquiry. Sponsored by the Maine Audubon Society.

*Fee: \$5.00 for 3 certification credits. Pre-registration is required as space is limited. For more information call Carey Hotaling at 781-2330.*

## SATURDAY, OCTOBER 3

### Volunteer Coastal Cleanup

*(details elsewhere)*

### Wells Reserve Walking Programs

*Meet at Laudholm Trust office, Laudholm Farm Road, off Route 1, Wells, 10:00 a.m. and 3:00 p.m. for adults, 1:00 p.m. for families.*

The walks will traverse the Reserve from the historic Laudholm Farm to the beautiful salt marshes of the Little River Estuary. Along the way participants will learn about the cultural and natural history of the Reserve through hands-on activities.

*Fee: \$1.00 per person or \$3.00 per family. For more information call 646-4521.*

### Field Trip to Little Moose Island

*Fraser Point Picnic Area, Schoodic Peninsula, 10:00 a.m.*

Enjoy the birds, views and unique geological formations of this less visited part of Acadia National Park.

*Free. All welcome. For more information call Bob Milardo at 581-3128 (day) or 234-2532 (evenings).*

### Tides of Change Bicycle Trip

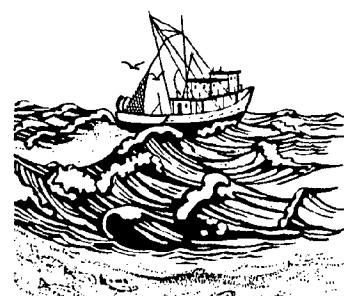
*Meet at Winslow Park, South Freeport, 9:00 a.m.*

This 20 mile bicycle trip will take participants through some of the loveliest portions of the southern Maine coast. Beginning at Winslow Town Park, the trip will skirt the shores of the Harpswell Estuary passing through three virtually unchanged 19th century villages and ending at beautiful Wolf Neck Woods State Park. Participants may elect to shorten the trip by half and be transported back to Winslow Park from Wolf Neck by van. Sponsored by the Freeport Historical Society.

*Fee: \$8.00 for members, \$10.00 for non-members. For more information call 865-3170.*

## MAINE AUDUBON SOCIETY

# Sea Fair



## SUNDAY, OCTOBER 4

### Sea Fair

*Percy and Small Shipyard, Maine Maritime Museum, Bath, 11:00 a.m. to 5:00 p.m.*

A family-oriented marine festival featuring over 60 exhibits, performances and activities including boat rides, seafood and much more. Sure to be a fun outing for all ages! Sponsored by the Maine Audubon Society.

*Fee: \$4.50 for adults, \$4.00 for seniors and members, \$2.00 for children, under 5 free. For more information call 781-2330.*

### The DEFENCE Story 1779

*Maine State Museum, Augusta, 1:30 p.m.*

Edwin A. Churchill, Chief Curator, will present a talk on the excavation of artifacts from the 170-ton ship, the DEFENCE, and explain what these objects tell us about life at sea and everyday conditions in Revolutionary America. A tour of "The DEFENCE Story" exhibit will follow the talk.

*Free. All welcome. For further information call 289-2301.*

### The Shore Tour

*Wolf Neck Woods State Park, Freeport, Sunday through Thursday at 2:00 p.m.*

Explore the varied shoreline of Wolf Neck Woods State Park with the park interpreter. Learn about the inhabitants and ecology of the salt marsh, mudflats, gravel beaches, rocks and tide pools.

*Free. Open to all. Special group tours can be arranged by calling 865-4465 or 289-3821. Dress for the weather and wear sneakers. Binoculars are a good idea too.*

## MONDAY, OCTOBER 5

### Pejepscot Historical Society Exhibits and Tours

*159 Park Row, Brunswick, Monday through Friday, 10:00 a.m. to 3:00 p.m.*

Visit the turn of the century home of Captain Alfred Skolfield, one of Maine's prominent sea captains and shipping merchants. Guided tours are available daily at 10:30 a.m. and 1:30 p.m. Additional exhibits are located in the adjacent Pejepscot Museum along with a special exhibit of watercolors and wood carving by local artist Forrestier featuring coastal scenes and themes.

*Free admission to Pejepscot Museum. House tours \$5.00 for adults, \$2.50 for children. For more information call 729-6606.*

### The Shore Tour

*Wolf Neck Woods State Park, Freeport, 2:00 p.m.*

See Sunday, October 4th for a description of this natural history walk.

### Animals of the Coast of Maine - Lobsters

*Maine Aquarium, Route One, Saco, 4:00 p.m.*

Enjoy this special program focusing on the lobsters of the Gulf of Maine. The Maine Aquarium is sponsoring other special programs on the Animals of the Coast of Maine throughout Coastweek (Tuesday, Wednesday and Thursday at 4:00 p.m., Saturday, Sunday and Monday at 2:00 p.m.).

*Special programs included in price of admission. For more information call 284-4512.*

### Coastweek Gallery Talks and Tours

*Maine State Museum, Augusta, "Lobstering" at 11:00 a.m. and Tour of "The Age of Steam and Sail" and "The DEFENCE Story" at 2:00 p.m., Monday through Friday.*

Bring your family or class to see the many exhibits and special programs at the State Museum that address the natural and cultural history of the Maine coast.

*Free. For further information call 289-2301.*

### Confederacy Downeast

*Yarmouth Community House, E. Main Street, 7:30 p.m.*

Come hear Mason Philip Smith talk about his interesting new book. Sponsored by the Yarmouth Historical Society.

*Free. Open to the public. For more information call 846-6259.*

## TUESDAY, OCTOBER 6

### Fishes of the New England Coast

*Maine Aquarium, Route One, Saco, 4:00 p.m.*

See Monday, October 5th for details.

### The Shore Tour

*Wolf Neck Woods State Park, Freeport, 2:00 p.m.*

See Sunday, October 4th for details.

### Rising Like a Phoenix: Portland and Commerce, 1790-1815

*Maine Historical Society, 485 Congress Street, Portland, Tuesday through Friday, 9:00 a.m. to 5:00 p.m.*

View this exhibition of paintings, maps, artifacts, prints and documents depicting Portland's thriving maritime-based economy.

*Free. For more information call 774-1822.*

### Coastweek Display

*Falmouth Memorial Library, Tuesday and Friday from 12:30 p.m. to 8:30 p.m. and Wednesday and Thursday from 9:00 a.m. to 5:00 p.m.*

Expand your horizons with this special display on the coast, oceans and the impacts of floating debris on wildlife.

*Public welcome.*

### Tour of a 19th Century Saltwater Farm

*Pattengill Farm, off Flying Point Road, Freeport, 2:30-4:30 p.m., same program also offered Friday, October 9.*

Learn about life on a 19th century saltwater farm. Tour the farmhouse and out buildings that have stood virtually unchanged for more than 150 years. Hear about plans for restoration of the property. Sponsored by the Freeport Historical Society.

*Fee: \$2.00 for adults, \$1.00 for children 5-12 years. Walk into farm is approximately one mile, round trip. For further information call 865-3170.*

### Public Forum on Coastal Access

*Saco City Hall, 300 Main Street, 7:00 p.m.*

Paul Stern from the Attorney General's office, Alison Rieser from the Marine Law Institute, and representatives from the Regional Planning Commission and the State Planning Office will discuss the issues surrounding public access to the coast; the significance of recent court cases both in Maine and nationally and their implications for public access; and tools and techniques available for promoting access. Local officials, citizens and others will have the opportunity to discuss local access problems. Sponsored by the Community Assistance Division of the State Planning Office.

All welcome. For further information call Josie Quintrell at 289-3261.

## WEDNESDAY, OCTOBER 7

### On the Coast of Maine

*MPBN Radio, 6:40 a.m.*

Listen to Paul Carter's weekly radio segment which brings together a rich blend of political, historical, archaeological, legal and ecological material in the form of location interviews, coastal sound effects, music and narration.

### Wells Reserve Walking Tour

*Laudholm Trust Office, Wells, 10:00 a.m. to 3:00 p.m. for adults, 1:00 p.m. for families.*

See Saturday, October 3rd for details.

### The Shore Tour

*Wolf Neck Woods State Park, Freeport, 2:00 p.m.*

See Sunday, October 4th for details.

## Seals

*Maine Aquarium, Route One, Saco, 4:00 p.m. See Monday, October 5th for details.*

### The DEFENCE Story

*Maine State Museum, Augusta, 7:30 p.m.*

For a description of this fascinating talk and exhibit tour see Sunday, October 5th.

### Public Forum on Public Access

*Abbot Auditorium, Beloit Free Library*

*46 High Street, 7:30 p.m.*

Participate in this informative and provocative discussion of public access issues in Maine. For details see Tuesday, October 6th.

## THURSDAY, OCTOBER 8

### Fall Hawk Watch

*Hancock Neck, 9:30 a.m.*

Each fall over 500 hawks of twelve species migrate over this peninsula in Casco Bay. You can probably see several of them Sponsored by Mid-Coast Audubon.

*Free. Limited walking required. For more information call Jean Hamlin at 586-6901.*

### The Shore Tour

*Wolf Neck Woods State Park, Freeport, 2:00 p.m.*

See Sunday, October 4th for details.

## The Human Impact on the Gulf of Maine

*Bigelow Lab, M. Knob Point, W. Boothbay Harbor, afternoon*

A panel of scientists and policy makers will discuss the impact human activity is having on the Gulf of Maine. The discussion will range from the problems of plastic debris to the destruction of salt marshes, from the discharge of heavy metals to tidal power. Sponsored by the Bigelow Laboratory for Ocean Sciences.

*Free. Open to the public. For further information and exact time call Jenni Logan at 633-2173.*

### Rare and Endangered Coastal Birds

*L.L. Bean Casco Street Conference Center, Route 1, Freeport, 7:30 p.m. - 9:00 p.m.*

Susan Woodward of the Department of Inland Fish & Wildlife will give a slide presentation about Maine's special sea and shorebirds.

*Free. All welcome.*

## FRIDAY, OCTOBER 9

### Estuaries: Evolution's Highway from the Sea

*Wells National Estuarine Research Reserve, Wells, 7:30 p.m.*

Dr. Rudolf F. Nunnemacher, an engaging speaker, will involve his audience in learning how the plants and animals of the oceans evolved and migrated through estuaries to the land. Some of these organisms eventually returned to the sea's edge and live in our marshlands today. Dr. Nunnemacher is a Professor Emeritus of Zoology at Clark University, Worcester, MA. He is a member of the Bermuda Biological Station with a special interest in the crustaceans of the oceans. Sponsored by the Wells National Estuarine Research Reserve.

*All welcome. For further information call 646-4521.*

### Cruising the Maine Coast by Small Boat

*L.L. Bean Casco Street Conference Center, Route 1, Freeport, 7:30 p.m. - 9:00 p.m.*

Dave Getchell Sr., avid boater and freelance writer on the subject, will show slides and talk about his experiences cruising on the coast of Maine.

*Free. All welcome.*

## SATURDAY, OCTOBER 10

### Examining Live Sea Life

*The Children's Museum of Maine, 746 Stevens Ave., Portland, 10:30 a.m.*

Through close-up examination and handling, the audience will be able to learn about the different kinds of sea creatures found in local waters. Sponsored by the Children's Museum of Maine and the Gulf of Maine Aquarium.

*Free with museum admission. For children 2 years and up. For more information call 797-5483. Wear a smile!*

### Wells Reserve Walking Programs

*Laudholm Trust Office, Laudholm Farm Road, off Route 1, Wells, 10:00 a.m. and 3:00 p.m. for adults, 1:00 p.m. for families.*

The walks will traverse the Reserve from the historic Laudholm Farm to the beautiful salt marshes of the Little River Estuary. Along the way participants will learn about the cultural and natural history of the Reserve through hands-on activities.

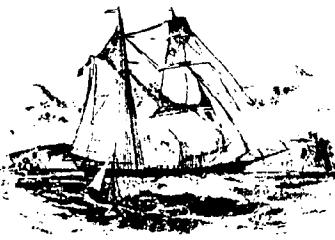
*Fee: \$1.00 per person or \$3.00 per family. For more information call 646-4521.*

### Tidepool Animals

*Maine Aquarium, Route One, Saco, 2:00 p.m.*

Come enjoy this special program focusing on the tidepool animals of the Gulf of Maine.

*Tidepool animals program included in price of admission. For more information call 284-4512.*



## SUNDAY, OCTOBER 11

### Lobsters

Maine Aquarium, Route One, Saco, 2:00 p.m.  
See Saturday, October 10th for details.

### Initiate a Coastweek outing on your own!

Take a walk on the beach, explore a tide pool, enjoy a view of the ocean, or eat fresh fish for supper.

## MONDAY, OCTOBER 12

### Whales

Maine Aquarium, Route One, Saco, 2:00 p.m.  
Hear this fascinating program on whales of the Gulf of Maine by author Tim Dietz.  
See Saturday, October 10th for details.

## SUNDAY, OCTOBER 18

### Fall Foliage Festival

Pettengill Farm, off Flying Point Road, Freeport, 1:00 p.m. to 4:00 p.m.  
Enjoy the foliage at the Freeport Historical Society's nineteenth century saltwater farm. Learn about how an 1850's coastal farm family spent their days in autumn. Ride into the farm on a horse-drawn wagon, press cider, sail in a traditional vessel along a portion of the Harpswell River and more.

Free, varying charges for food and special events. For all ages. For more information call 865-3170.

## SATURDAY, OCTOBER 24

### Annual Conference on Marine Education

SAVITI, South Portland, 9:00 a.m. to 3:30 p.m.  
A day-long conference featuring speakers, workshops and curriculum materials on the theme of the coast of the Gulf of Maine. Sponsored by the Gulf of Maine Marine Education Association. Fee: \$12.00 for GOMMEA members, \$17.00 for non-members (includes coffee and donuts, lunch and materials). For further information call Mary Cerrullo at 284-4512 or Dean Meggison at 985-6151.

## CELEBRATE THE COAST ALL YEAR LONG

Many Coastweek participants and other organizations conduct ongoing public programs on coastal topics throughout the year at regularly scheduled times or by special arrangement.

Wells Reserve Walking Program, Saturdays at 10:00 a.m. and 3:00 p.m. and Wednesdays at 10:00 a.m. For group reservations call 646-4521.

Wolf Neck Woods Natural History Program provides interpretive programs for the public every Sunday at 2:00 p.m. Group reservations for a variety of guided programs can be made by calling Pat Bailey at 865-4465 or 289-3821.

The Maine State Museum conducts group gallery programs on "Lobstering," "Sailmaking" and "Tide Pools" and tours of "The Age of Steam and Sail" and "The DEFENCE Story" exhibit. In addition, several of the ongoing exhibits at the Museum address the natural and cultural history of the Maine coast. For information and reservations call 289-2301.

The Freeport Historical Society sponsors many public programs at the Pettengill Farm, a 19th century saltwater farm. The Fall (September 19, 1987), Winter and Spring 1850's Coastal Life Programs are open to teachers, environmental educators, historical interpreters and the general public. Participants experience life on a coastal Maine farm in each season, including planting, harvesting and open hearth cooking. Workshops will focus on ideas for recreating "living history." The FHS will also sponsor the "Celebrate Winter" festival (March 6, 1988), a seasonal variation on the Fall Foliage Festival (see October 18th). For further information call 865-3170.

The Maine Aquarium in Saco offers several educational programs geared to varying age levels, as well as marine curriculum materials, teacher workshops and courses and special events for schools and families. For more information call 284-4512.

The Department of Marine Resources will provide in-classroom demonstrations, teacher and adult programs, slide shows and videos on a variety of marine resource issues, free of charge. For further information call Lorraine Stubbs at 289-2291.

The Maine Yankee Atomic Power Company Information Center is open year round, seven days a week between noon and 4:00 p.m., free of charge. Visitors can tour the control room simulator, see a video and view interactive displays about this coastal energy facility. For further information, call 1-800-458-0066.



For further information about Coastweek 87, please contact:  
State Planning Office  
State House Station #38  
Augusta, Maine 04333  
Telephone (207) 289-3261

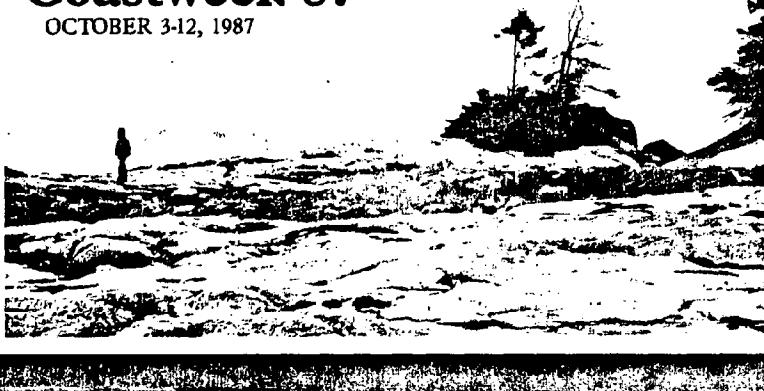
Financial assistance for preparation of this document was provided by a grant from the Maine Coastal Program, in the Maine State Planning Office, through funding provided by the U.S. Department of Commerce, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended.



Ruth Ann Hill

## Coastweek 87

OCTOBER 3-12, 1987



Hans Tylm

## Coastal Cleanup

SATURDAY, OCTOBER 3

### Volunteers Needed

Volunteers are being recruited the length of the coast to pick up plastic and other trash from beaches, marshes and rocky shores. Volunteers are asked to collect, inventory and properly dispose of all litter and return a completed report form.

The cleanup is an effective way to minimize harm to marine wildlife caused by plastic debris, as well as to enhance the beauty of our coast by reducing the visual blight of litter collecting along the shoreline. Data from the Maine cleanup will be used both here in Maine and as part of national efforts to minimize debris in the oceans and on the shore.

- Kennebunk and Kennebunkport, Contact: Richard Hogue, 985-4349.
- Damariscotta Beach, South Portland, The Ferry Village Neighborhood Conservation Association invites neighbors to help with the cleanup, enjoy a cookout and play beach games, 10:00 a.m. to 3:00 p.m. Bring your own food and drink, grills provided. Be prepared to work and have fun! Contact: Tom Blake, 799-5723.
- Freeport, Contact: Katrina Van Dusen, 865-6599 or 289-3261.
- Maquoit Bay, Brunswick, Contact: Joan Saxe 865-3648 or 797-7580. Sponsored by Brunswick Area League of Women Voters.

• Montswag and Hockomock Bays, Woolwich-Wiscasset area: Contact: Don Hudson, 882-7323. Sponsored by the Chewonki Foundation.

• Knox-Lincoln County area, Contact: Doris Belant, 563-121 or Les Hyde, 594-2104. Co-sponsored by the Knox-Lincoln County Cooperative Extension Service and Mid-Coast Audubon.

• Castine, Contact: Shirley Burke, 989-7374. Sponsored by the Abnaki Girl Scout Council as a part of "Sail Away" event at Main Maritime Academy.

• Hampden, Contact: Mike Robbins at 581-2051 (work) or 862-3932 (home). Sponsored by the Hampden Conservation Commission.

• Deer Isle, Contact: Dud Hendrick, 348-6615. Meet at Deer Isle High School at 11:00 a.m. Sponsored by Deer Isle Conservation Commission.

Many more local cleanups have been organized since publication of this list. Additional volunteers and local organizers are still needed. If you would like to participate in the cleanup, contact on the people listed above or Katrina Van Dusen at the State Planning Office, Station #38, Augusta, Maine 04333, telephone 289-3261.

**Maine  
Beach Cleanup Statistics  
1985, 1986 and 1987**

	1985	1986	1987			
PARTICIPANTS:	N	%	N	%	N	%
Total	368		495		793	
0-18 yrs old					52.3	
19-40					28.3	
41+					19.4	
COASTLINE COVERED:	29.6 mi		69.5 mi		80.7 mi	

DEBRIS COLLECTED:

Estimated no. of pounds: 1560  
 Average pounds/mi: 52.7  
 Extrapolated/3000 mi coast: 76.1 tons  
 Estimated no. of pieces: 13,000

Composition of ranking based on no. of pieces by debris rank type:

	N	%	Rank	Previous Rank	1985	1986	Rank
- bottles, glass	5315	27.4	1	1	3		
- styrofoam	4624	23.8	2	2	1		
- plastic bags, sheets	2606	13.4	3	4	5		
- plastic containers	2263	11.7	4	8	2		
- metal cans	1835	9.6	5	7	7		
- household items	1186	6.1	6	3	6		
- fishing gear **	700	3.6	7	6	4		
- rubber gloves, boots	504	2.6	8	8			
- 6-Pack holders	280	1.4	9	10			
- dead animals	79	0.4	10				

\*\* fishing gear figures were taken from specified tally under "Other" category, including recreational, commercial, and aquacultural fishing gear and remnants.

Dead animals (cause of death not attributed to debris in any case):

Gulls:	24
Fish:	32
Raccoon:	2
Heron:	2
Unidentified bird:	3
Seal:	1
Mouse:	1
Cormorant:	1
Crow:	1
Unidentified mammal:	1

Miscellaneous Items Collected:

life jackets (70), plastic sleds (5), disposable diapers (7), shotgun shell casings (30), house shingles (14), tires (17), lawnmowers (2), shovels (2), metal cabinet, engine blocks (2), condoms, Frisbees (5), caulking gun, soap tray, disposable cigarette lighters (6), tampon applicators (25), balloons with ribbons (3), aerosol caps (5), Portapotty, shoepolish can, propane tank, Porn magazines (40), hard hats (2), insulin needle, walkie talkie, McDonald's burger box (3), tennis balls (3), cigarette filters (1000's).

# Plastic trash threatens sea life

EVENING EXPRESS 8/4/87

## Problem worsens in Maine

By GREG GRADSBERRY  
Staff Writer

They're great in Casco Bay — small, ugly and potentially deadly to Maine wildlife. They are the plastic junks that hold beer cartons, packages of beer or soda, plastic bags, the foam cups of fast-food chains and pieces of insulation dumped from the sides of ships.

Tons of plastic junk bob onto the beaches of Casco Bay each year, a tiny fraction of the millions of tons of plastics that scientists estimate have been cast into the world's seas.

And while Congress may soon sign an international treaty outlawing the dumping of plastic into ocean waters, even supporters of the plan here doubt such laws will stop the littering.

The Coast Guard can't enforce the fishing regulations they have, so how in the hell are they going to watch people 24 hours a day to make sure they don't dump things over the side? says Tom Jordan, Jr., president of the Maine Fishermen's Co-op in Portland.

"We do support this. We shouldn't dump things over the side. But it's a joke. How can they enforce this if they can't even enforce other fishing

Maine Game warden already have the power to ticket sealife litterers. Even no, state officials say the amount of seaborne trash is increasing in Maine waters.

Researchers say that without stronger controls on plastic-dumping — such as those proposed in an addition to the Marine Policy Act (short for "marine pollution") now before Congress — New England could suffer the same plague of marine animal deaths now occurring on the coast of the Pacific Northwest and Hawaii.

The National Wildlife Federa-

tion conservatively estimates 100,000 animals nationwide die last year through plastic lines or choke on plastic waste. "It's a serious problem," said Steve Moyer, legislative representative for the National Wildlife Federation. "But we are not clear on the scope of the problem to marine birds and mammals."

By Susan Langley

KENNEBUNK — The final totals have not been calculated, but by all accounts Saturday's Coastal Cleanup was a boomerang, if messy, success.

For the third year in a row, volunteers combed Maine beaches from Eastport to York, collecting debris, much of it deposited by uncarating beachgoers or washed up on shore after being tossed overboard at sea.

In York, a crew assembled by the Conservation Commission member Ruth Littlefield made up Beach (including Parsons and Crescent Surf beaches), and along Colony Beach in Kennebunkport. The volunteers included nine members of Girl Scout Troop 249 with their Scout leader, Jan Buffum.

Hogue said the group picked everything from dirty disposable diapers to cigarette lighters. Their haul also included pieces of metal lobster traps, air sneakers, "a lot" of Styrofoam fast-food containers and aluminum cans, and "pieces" of Styrofoam everywhere.

Kennebunk-Kennebunkport coordinators Richard Hogue and Wilma Leinenonen assembled more than 25 people, an award-winning team that scooped up 846 pounds of trash in four hours along stretches of coastline stretching from Mother's Beach to the Muscongus River, the Monson River to Lantholm Beach (including Parsons and Crescent Surf beaches), and along Colony Beach in Kennebunkport. The volunteers included nine members of Girl Scout Troop 249 with their Scout leader, Jan Buffum.

"My kids were grossed out," Littlefield said. She and the other York pick-uppers found

COAST STAR

10/7/87

up hundreds of cans and bottles, clothing, 50 gallons of Syrofoam, six-pack yogurt, Bic lighters, paint cans, golf balls, diapers and beach toys, and a lot of fishing gear from a recent ocean storm, among other items.

"It's just a matter of paying back what you use so often," Hogue said of the beach-cleaning effort. "Four hours for a whole year — it's not much really."

In Eliot, Conservation Commission member Maria Mauer and Assistant Commissioner Lawrence Scott, Lawrence and John Caruso assembled five members of Boy Scout Troop 340 to pick up trash along a three-quarters-of-a-mile stretch of the Piscataqua River. They collected 10 plastic bags, 10 plastic containers, 30 glass bottles, 30 metal cans and 95 pounds of scrap metal. Si

In 1985, 368 volunteers collected 1,560 pounds of litter from 30 miles of coastline. In 1986, 495 volunteers collected 5,983 pounds along 70 miles of coastline. Katrina Van Dusen of the State Planning Office noted that this is equivalent to 86 pounds of trash per mile. Extrapolated to Maine's 3,000 miles of coast, it appears there are at least 268,000 pounds of garbage littering Maine's shores.

The weather cooperated with

# Volunteer effort clears debris from area shores

By Susan Langley

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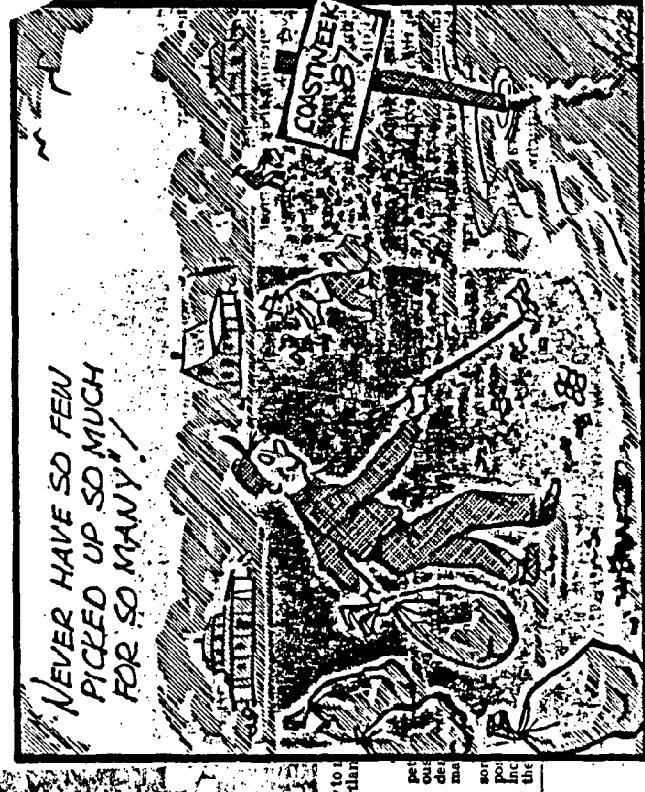
the cleanup effort. Rain threatened the beachcombers, but held off until Sunday.

Following the cleanup, volunteers sorted, counted and weighed their trash collections. The cleanup totals will be tabulated and used both in-state and as part of national efforts to minimize debris in the oceans and on the shoreline.

The Coastal Cleanups are one of numerous activities that are part of Coastweek '87, which runs from Oct. 3-12, celebrating the beauty and value of Maine's shores. The cleanup is an effective way of minimizing the harm to marine life caused by plastic debris, as well as changing the beauty of the coast by reducing the visual blight of litter along the shoreline.

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The weather cooperated with



YORK COUNTY COAST STAR 10/7/87

A Planner II was hired as "Communications Coordinator" to carry out the public education demonstration project, beginning work on November 30th. The initial emphasis is to be on development of a detailed project strategy.

**Task 5 -- Technical Assistance to Agencies & the Public**

**A. DOC - Expanding Access Opportunities**

The DOC completed a survey of all coastal municipalities during the reporting period.

**B. SPO - Achieving Municipal Compliance with State Coastal Policies**

A request for proposals was prepared by the DECD during the reporting period under its memorandum of understanding with the SPO, in accordance with the project Benchmark.

**C. IF&W - Management & Regulation of Wildlife**

In early September, in accordance with the project Benchmark, the SPO negotiated and signed a memorandum of understanding with the Dept. of Inland Fisheries & Wildlife for "Terrestrial & Marine Wildlife Protection from South Coastal to Mid-Coast Maine, August 1, 1987 to July 31, 1988." The IF&W commenced work on the project during the reporting period.

## Appendix B

### STATUS OF GRANT TASKS, CZ087 Award (1986-87)

Note: For purposes of timeliness and continuity this section covers selected CZ087 tasks which overlap CZ063 tasks and/or have been fully completed since the last progress report. CZ087 will be fully reported on in January, 1988.

#### **Task 1 -- Improving Program Core Law Enforcement & Technical Assistance**

##### **A. DEP - Core Law Enforcement & Administration**

See Exhibits D-6 and D-7 in Appendix D.

##### **C. DEP - Shoreland Zoning Administration**

See Exhibits D-6 and D-7 in Appendix D.

##### **D. DEP - Developing Maps for the Sand Dune Law**

Though not approved by the OCRM for federal funding this project is continuing. See Appendix C, Item 4.

#### **Task 2 -- Local Program**

Application booklets for 1987-88 Local Planning Grants and Waterfront Action Grants were prepared and distributed to all coastal municipalities, coastal regional councils and the OCRM in July, outlining eligibility criteria, review process, competitive guidelines and time schedules.

#### **Task 3 -- Interagency Coordination**

##### **A. Federal Consistency**

See page 11 of Exhibit D-6 in Appendix D.

#### **Task 4 -- Local & State Program Administration**

##### **B. State Program Administration**

In June, Coastal Program staff evaluated OCS Proposed Lease Sale 96 and testified at the Dept. of the Interior's June 15 Public Scoping Meeting on behalf of Governor McKernan in opposition to the sale. (See clipping.) In addition, in its role as Coordinator for "Coastweek '87," the staff prepared informational materials and began to solicit sponsors for Coastweek events.

# Ocean drilling opposed

**By BOB CUMMING**  
Star Writer  
*The McKernan  
is unique  
in the  
industry.*

to seek public bids on a new exploration attempt, completed plans call for Departmental approval by Feb. 1, 1969, with the study sponsored by the Mineral Proposals 130, also the sale of leases of the area, and a proposal to be submitted to the state Natural Resources Commission for drilling in closer proximity from the coast.

Mr. Brey said his proposal would start on the outer continental shelf, where state currents are tropic and become concerned in the area off the coast of Maine, where they will strike the northern coast of New England. This state currents than any other, he said, was that fish were caught in the area, he said, the new proposal area could affect the entire coast.

Individuals are concerned that the new proposal could affect the southern Maine waters area, damage the fishing industry, and make the ocean waters a barrier to the double support of oil companies.

Canadian 200-mile limit

Portland

New Hampshire

Maine

Mass.

R.I.

George Bank

proposed  
oil lease areas

S. Department of the Interior Minerals Management Service, Atlantic OCS Region

large-scale oil spills documented sea scallop fisheries and sea routine vulnerability important to Canada's marine industry. She said the World Court decision, that oil spills makes production decisions, variation of oil in the more portion of year, she said. The oil spill was an accident that remains than Georges Bank resources. The oil spill was an accident that remains than Georges Bank resources. The oil spill was an accident that remains than Georges Bank resources. The oil spill was an accident that remains than Georges Bank resources.

Johnson resists a lot of oil drilling in Port  
of New Orleans. He says he's been told  
that oil companies can live and can  
make money without causing environmental  
problems. But if oil companies do cause  
problems, he says, they should be held  
responsible. Johnson says he's been told  
that oil companies should pay for the  
environmental damage they cause.

area at the  
Bull Island Fisheries

...but I'm  
going to be  
Steve

## Appendix C

### OTHER FEDERALLY REQUIRED REPORTS

#### 1. Monitoring & Enforcement Activities

See Task 1.A, Appendix A.

#### 2. Wetland/Estuary Report

See clipping regarding wetland permitting in York County, Item 4 below, and Exhibit D-5 in Appendix D.

#### 3. Fisheries Management Activities

See clippings regarding Maine's new aquaculture law and the success of the Cutler lobster hatchery.

#### 4. Hazard Management Activities

The Maine Supreme Court upheld the Sand Dune law in its decision on the Hall case in Phippsburg, ruling that the State is not required to compensate property owners prohibited from rebuilding a cottage damaged by beach erosion (see clippings).

Towards the end of July DEP and MGS staff held public workshops on proposed revisions to the Sand Dune Rules and the accompanying Sand Dune Maps prepared with 1985-86 CZMA funding assistance. A public hearing on the Rules was held in August. Rebuilding of storm damaged structures in v-zones or seaward of a frontal dune emerged as a major issue. The clipping regarding the situation at Camp Ellis in Saco illustrates the dilemma.

A draft State of Maine Hazard Mitigation Plan was prepared jointly by the SPO, Dept. of Economic & Community Development, and the Maine Emergency Management Agency, for review in December, 1987. The draft chapter on "Hurricanes and Coastal Storms" was written by the Maine Geological Survey under its memorandum of understanding with the SPO.

#### 5. Urban Waterfront & Commercial Harbor Projects

See letter and clippings regarding the waterfront improvement program in Bangor assisted with several Coastal Grants, publicity on 1986-87 grant projects in Tremont,



**Supported by seed lobster fund**

## Maine hatchery releases 70,000 lobsters

CUTLER, ME - The Cutler lobster hatchery has survived its fledgling first year and after a successful growing season this summer, hatchery operators feel the project is turning the corner.

The Maine Department of Marine Resources (DMR) Lobster Advisory Council met Sept. 30 at the Cutler Marine Hatchery to listen to hatchery manager Andrew Patterson give a rundown on the facility's progress with raising fourth-stage larval lobsters for release in the wild.

According to Patterson, more than 70,000 lobsters were raised and released by the Cutler hatchery from June through September. In 1986, only 19,000 stage-four lobsters were released. Patterson admitted that last year was a "learning" experience and the final output was disappointing, but he described the 1987 season as "extremely successful."

These numbers and Patterson's enthusiasm were good news to lobster council members who voted in June to set aside \$40,000 from the seed lobster fund to support hatchery projects. Cutler was awarded \$23,900 of that total. No other project has received funds, though the Stonington and Five Islands hatcheries have expressed interest.

Last winter, state Rep. Harry Vose (Eastport), submitted a bill that proposed a legislative appropriation for hatcheries. The contents of the bill passed, but without the appropriation.

Vose attended the meeting in



Manager Andrew Patterson shows the Cutler lobster hatchery records to visiting Lobster Advisory Council members, including Bill Anderson, pictured at right.

Cutler, at which time he assured the council that his legislative fight for financial support for hatcheries was not over.

"We have appropriated very little money for our fishing industry," said Vose. "It is my intention to go back to the well to have a fund set up through appropriations. We'll go after

that money. That is a promise."

But Vose also told council members that he needed support when lobbying the Legislature for the money. "The only way we can go about it is to go down there (to Augusta) in force," said Vose as he called upon the council, the Maine Lobstermen's Association, and all lobstermen for help in the venture.

### The operation

The Cutler Marine Hatchery, which is in its second season of operation, is located in the basement of the town's Municipal Building. The facility raises larval lobsters in 100-gallon fiberglass conical-shaped tanks.

This fall, three of the facility's 10 tanks are being used exclusively for growing brine shrimp, which Patterson explained "is the diet for baby lobsters." The brine shrimp are fed algae.

Sea water, algae, brine shrimp, and larval lobsters all circulate in the same heavily aerated tank between 16-20 days after hatching until the lobsters reach stage four, making them approximately 1/2"-3/4" in length. A stage-four lobster has developed claws and sinks to the bottom, no longer at the mercy of water circulation as it was in its previous planktonic phase.

The hatchery keeps a daily log on the general operation of the facility, as well as a life history chart on each batch of lobsters.

Over the course of the summer,

survival of the larval lobsters increased from a low of 20% in the early months to as high as 60%. According to Patterson, the facility, with the help of University of Maine at Machias (UMM) biologist Brian Beal, solved the cannibalism problem it had the year before. And month after month, said Patterson, rearing techniques are continually being improved.

Cutler hatchery obtains its egg-out female lobsters from local fishermen, and last year, the hatchery season ended in early November after the last berried females were utilized from lobstermen's traps.

This summer, the hatchery placed five females in "cold storage" at UMM. Egg development on these females was slowed down after the lobsters were placed in aquaria in a 40° "cold room." According to Beal, the lobsters fared well and suffered minimal egg loss.

Since lobstermen were no longer finding many wild berried females, the lobsters at UMM were taken out of cold storage in early October, and Beal estimated that the additional lobsters will allow the hatchery to keep producing and releasing stage-four lobsters for an additional month.

Since larval production was so successful this summer, Patterson said the hatchery was able to "spread the wealth." Stage-four lobsters were not only released in the Cutler area, but along the coast all the way to Bucks Harbor.

Janice M. Plante

## Raising salmon: Downeast Maine's new venture

EASTPORT, ME - A new industry is struggling to take hold in Downeast Maine. It's an industry that's familiar in many overseas countries, but one that's still trying to carve out a niche in Maine's complex network of traditional fisheries. Pen raising salmon for a seafood-hungry US marketplace is the industry. The hub of its activity is Maine's Washington County, which butts up against the US/Canadian border, and is bounded on its eastern side by the Atlantic Ocean.

The primary species being raised is *Salmo salar*, a silvery colored salmon with small black spots on the upper half of its body. Many of the people attempting to rear Atlantic salmon are making significant capital investments in ventures that may not show returns for several years. And, the ventures usually depend on being able to obtain aquaculture leases, exclusive species rights in a specific area.

Since the salmon aquaculture industry is "new" in terms of New England fisheries, current ventures are facing political and societal obstacles, often with financial repercussions. And, legislators and fishery regulators are anxiously working to establish the rules and regulations that the salmon industry will soon have to play by.

During the past year, the Maine Department of Marine Resources

(DMR) has received a rush of applications for salmon aquaculture leases. The numbers are changing rapidly, but as of June 17, Maine had granted 11 leases for the rearing of Atlantic salmon. Additional species are being raised on some of the leases. Several, for instance, are attempting to rear rainbow trout. But in total, those 11 leases occupy 185.8 acres of space along coastal waters.

Also as of June 17, there were 15 additional salmon lease applications being considered. Most had a "pending" status, which means they were waiting for approval or denial from the state's leasing authority, the DMR commissioner. A few were still in the preliminary stages and were waiting for public hearings. Two of the 15 were requests to raise salmon on existing mussel leases, so no new acreage would be involved, just an extension of the species allowed on existing leases. In total, the 15 proposed salmon leases involve 234.8 acres, including 20 acres from the two existing mussel sites.

People unfamiliar with the salmon industry are surprised by the number of lease applications coming from the Downeast region.

But those who know salmon and Maine's coastline are not surprised at all. Venturists who have done their homework realize that few salmon operations would survive

along the coast west of Mount Desert Island.

Peter Pierce of Ocean Products, Inc. (OPI) in Eastport speaks from experience. OPI is Downeast Maine's only pen rearing salmon operation that has successfully raised, harvested, and marketed salmon.

Pierce said that conditions to the westward of Mount Desert Island, with the exception of an occasional pocket here or there, aren't suitable for pen rearing. Salmon being raised outside of the Downeast region of Maine are more likely to freeze to death during Maine's harsh winter months.

Oceanographer Dan Campbell agrees. According to Campbell, the extreme tidal mixing that exists Downeast is responsible for compressing the temperature range of the water column. Water in Passamaquoddy Bay, situated between the US and Canada, is not as cold in the winter because of vertical mixing within the water column caused by both wind and the region's 14'-15' tides.

Vertical mixing also accounts for summertime water temperatures that are not as warm. Overall, salmon live without the extreme hot and cold fluctuations that occur along other portions of Maine's coast.

Another benefit of the Downeast region's strong tidal action is that there is a continuous flushing and

replacing of the shore-side waters. At OPI, for instance, the current rates by salmon pens at a 3-knot rate. Divers stay tethered during underwater cage inspections, and salmon feces are swept away by the restless tidal flows.

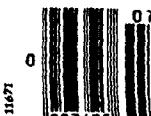
"The ideal system for waste is dilution. We are more effective at diluting waste than any other salmon-producing country," reflected Pierce.

Besides finding the right physical conditions, raising salmon takes money. This spring, smolts, the young fish ready for farming, were going for \$2.50 each, and that's if you could find any. A Norwegian-style sea pen is running \$250,000. There's also the cost of feed, labor, and overhead.

There's a great deal of forethought involved with salmon ventures. And this year there will be new legislative rules to deal with as well. But those attempting to make a go of salmon raising in Downeast Maine say there's also plenty of potential.

Janice M. Plante

Mailed no  
later than  
June 30, 1987



*DMR mandate: regulate industry*

## Maine passes landmark aquaculture bill

**AUGUSTA, ME** - The state of Maine has a new aquaculture bill. And for the most part, legislators, regulators, and aquaculturists are saying it's a positive step in the right direction. The rules that the state's burgeoning aquaculture industry play by will now be clearer. But regulations determining how the new law is implemented must still be written.

If you've been trying to follow the aquaculture issue through this session of the Legislature, the bill passed is a complete redraft of earlier versions, with a new number and title. It's now LD 1840, *An Act to Amend the Aquaculture Leasing Statutes*.

In addition to restructuring the statutes, the bill also requested funding to help the Maine Department of Marine Resources (DMR) carry out additional responsibilities assigned to it by the new law.

Although money was requested for two additional DMR personnel, only one position was approved by the Legislature's appropriations committee. Of the \$86,528 requested in 1987-88 and \$91,370 requested in 1988-89, the DMR received \$43,264 and \$45,685 respectively.

The bill is long, complicated, and is the result of a mussel harvesting issue that began in the Legislature 18 months ago. Because of this bill:

- The criteria for determining whether or not a lease is granted have been expanded and will be defined more clearly by forthcoming DMR regulation;
- Lease application forms will be changed, requiring more information from the applicant before the public hearing;
- New acreage fees and application

fees will be established through regulation, with minimums set by the Legislature;

- Site reviews and evaluations are required by the DMR, and impact assessments are required of the applicant when he files a lease application; and
- No single lease may be greater than 100 acres, and no single tenant may accumulate more than 150 acres aggregate.

Those who have been involved in this whole legislative process admit there's a long road ahead with DMR regulations that are yet to come. The regulations are intended to clarify and define the language established by the statute.

DMR Commissioner William Brennan already plans to change the order of testimony that's taken at public hearings on aquaculture leases. This, he said, can be done with a departmental policy change.

In addition, the department has established an in-house working group to digest the new aquaculture bill, and address the new DMR responsibilities mandated by the law.

Brennan said once specifics of all the issues are analyzed, the department will put together a package of implementing regulations that will go to public hearing. The commissioner expects that by the end of July he will have a timetable for the regulatory process.

Brennan feels that insufficient resources were given to the department to fulfill the additional responsibilities that DMR will have to assume because of this bill. "This could subject the department to additional criticism," he said.

But he also added that the Legislature's marine resources

committee fought to get the full appropriation requested in the bill, and that the committee said it will pursue additional funding during the second session of this 113th Legislature.

According to Bill Mook, president of the Maine Aquaculture Association, one of the association's biggest concerns with the bill is that it makes it more difficult for "the small person or independent fisherman to

get into aquaculture."

Although the association is especially worried about the "vagueness and language" used in describing the bill's environmental concerns and criteria, Mook concluded, "One of the strengths of this bill is that it provides DMR with a lot of authority and a mandate to regulate the industry."

Janice M. Plante

## 'Sand dune law' upheld by high court

By DONNA HALVORSEN  
Staff Writer

The shifting sands of Popham Beach shifted once again Tuesday as a New Hampshire couple lost their right to keep a cottage they'd built there five years.

## Court reverses ruling in beach cottage case

By TERRY HARKANY, KJ 7/15/87  
Associated Press Writer  
Kennebunkport, Maine

It's natural state, "which means the removal of the buildings," Tierney said. "We would expect that to be done in a timely fashion."

PORTLAND — The state is not alone in its desire to compensate a New Hampshire couple who were barred from rebuilding their Popham Beach cottage after it was destroyed by erosion more than 10 years ago, the Maine Supreme Court ruled Tuesday.

"The Superior Court seemed to be saying that if the highest and best use of the land were destroyed by government action, then compensation had to be paid," Sample said.

The court, in a unanimous decision, reversed a trial judge's finding that the denial of a building permit to Donald E. and Virginia G. Hall of Gorham, N.H., was an unconstitutional taking of property without compensation.

The law court, in reversing that opinion, noted that "you have to destroy all beneficial use, not just the highest and best use," he said. Neither the Halls nor their attorney could be reached immediately for comment on the ruling.

The case focused on a summer cottage and a lot containing 150 feet of frontage on Popham Beach that the Halls had purchased in 1970 for not affect existing water, sewer and electric services to the property and that the Halls have been living on their lot during the summer in a fully-equipped motorized camper.

The case had been watched closely as a test of Maine's "Sand Dune Law," designed to protect environmentally sensitive beach areas.

Tierney hailed the court's ruling as an important victory for the environment, with statewide implications. "All property is subject to reasonable restriction," when the public needs demand it, Tierney said in a prepared statement. "In reaffirming that idea, the court has made it possible for zoning boards and regulatory agencies to meet their responsibilities to control land use without the fear of draining the unconstitutionality of taking of property."

After a jury-waived trial last year,

Superior Court Justice Carl O.

Bradford concluded that the couple deserved a damage payment. The state appealed that decision, bring-

ing the Halls' case before the supreme court for a second time.

## Geologists want Camp Ellis sea wall torn down

And for the first time government officials observed a storm wave crashing over a sea wall at Camp Ellis.

SAUCC have six homes at Saco River beach. SACCO — Since 1908, 41 beachfront homes have slipped into the sea at Camp Ellis beach.

Scientists would like about 10 more homes on that strip of beach between the Saco River and the Atlantic Ocean to follow suit.

They want to tear down the sea wall at Camp Ellis and let the beach revert to its natural state.

And for the first time, government officials are considering that politically charged solution. They are balancing the perpetual cost of shoring up a sagging sea wall against the one-time cost of buying endangered homes and surrendering to the sea.

For years, geologists have tried to convince federal, state and local officials to pack it up and head inland. They want to build a taller sea wall — built to bolster receding shorelines and protect coastal homes — to prevent erosion than they prevent.

They say sea walls dramatically alter the natural patterns of the ocean and buildings endanger homes and surrounding areas.

Geologists have tried to convince federal, state and local officials to pack it up and head inland. They want to build a taller sea wall — built to bolster receding shorelines and protect coastal homes — to prevent erosion than they prevent.

They say sea walls dramatically alter the natural patterns of the ocean and buildings endanger homes and surrounding areas.

Geologists say the breakwater prevents sand from replenishing Camp Ellis beach. Instead, the waves carry sand to nearby Ferry and Old Orchard beaches, geologists say. Those beaches are continuously replenished while Camp Ellis is stripped bare.

The sewer lines open up the environmentally vulnerable area to development at a time when geologists are calling for beachfront owners to pack it up and head inland.

The U.S. Army Corps of Engineers wants to bolster the sea wall at Camp Ellis to protect the coastal homes. The Maine DEP opposes the expansion, claiming it violates state sand-dune protection laws.

Meanwhile, geologists want either to allow condominium development there, that makes the land more valuable, then there is real pressure to build a sea wall to project the federal investment as well as the real estate investment.

"Before the real estate develop-

"Because of its location and orientation, Camp Ellis stands directly in the path of winter waves. It is the city's only sea wall to protect the city from the ocean. The city is currently reevaluating its report on the matter." — Marcel Moreau in his report on Camp Ellis.

Wednesday, September 23, 1987

7

a 1979 Protection of

## Saco seawall in middle of political battle

Last winter, 12-foot winter waves scooped out sand behind the sea wall city risks lawsuits if it fails to protect the men start to act — if it ever is going to," Fink said. Some taxpayers if it buys land to buy sand to replenish its receding shoreline.

Recently, government officials and two geologists met to discuss what could be done to solve erosion at Camp Ellis. The consensus was to purchase endangered homes to pay for Camp Ellis, whether it's an inland Saco resident or a farmer out in Kansas," Fink said.

Erosion and a gradual rise in sea level forced Camp Ellis residents to build the sea wall in 1953. Since then, the city has spent nearly \$1 million to maintain it against the waves. In the past four years, dune grass, introduced sand from dredging and creates a public beach, said Kelley, director of Marine Geology Survey. The city can continuously fund sea wall repairs, they cannot get a sand dune permit to rebuild their homes.

"Probably the only logical solution is to buy up the properties and let nature run its course," said Ronald E. Stewart, Saco city administrator. "But that is not an easy political solution."

The U.S. Army Corps of Engineers wants to bolster the sea wall at Camp Ellis to protect the coastal homes. The Maine DEP opposes the expansion, claiming it violates state sand-dune protection laws.

The worst example of sea wall erosion in Maine is Camp Ellis, situated at the mouth of the Saco River, according to geologists and Department of Environmental Protection officials.

In between this political and environ-

mental tug of war is the city of Saco. The men start to act — if it ever is going to," Fink said. Some taxpayers if it buys land to buy sand to replenish its receding shoreline.

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Water prevents sand from replenishing

Camp Ellis beach. Instead, the waves

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while Camp Ellis is stripped bare.

At that time, beachfront homeowners

might be more willing to sell if they find

they cannot get a sand dune permit to rebuild their homes.

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carry sand to nearby Ferry and Old

Orchard beaches, geologists say. Those

beaches are continuously replenished

while Camp Ellis is stripped bare.

At that time, beachfront homeowners

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JOHN T. FRAWLEY  
City Engineer  
Director of Public Services

City of Bangor, Maine

ENGINEERING DEPARTMENT

State Planning Office

State House, Station 38

Augusta, Maine 04333

Mr. Robert G. Blakesley  
Coastal Program Contract Administrator  
State of Maine Executive Department  
State House, Station 38  
Augusta, Maine 04333

Re: CZM Waterfront

Dear Bob:

I thought that you might be interested in having an update on the progress that we have made on the restoration and revitalization of the Penobscot River waterfront in Bangor, which has been so greatly aided by various CZM grants during the past few years. These range from the preliminary planning for the Hampden Marina and a satellite docking facility in Bangor which started in 1979, to the Front Street revitalization plan completed by Lane, Frenchman in 1985.

As we have previously reported, the City did construct a waterfront park and docking facility in 1984 at a total cost of \$180,000., consisting of NPS funds, \$50,000. State boat facilities funds, and \$55,000. of local funds. This project was further expanded in 1986 with the opening of an additional boat landing dock at an additional local cost of \$90,000. There were ten private boats moored in the area in 1985, which expanded to nineteen in 1986, and forty in 1987; we expect a total of between sixty and seventy private moorings next year. In addition, the MV Mt. Katahdin, a 300-passenger cruise boat, has handled more than 20,000 people during each of the past two years in scenic cruises down the Penobscot.

You will recall that the Lane, Frenchman study recommended that the City acquire the commercial properties adjacent to Front Street, between the Joshua Chamberlain Bridge and Railroad Street.

Page Two

All of these properties have been acquired using Community Development funds, including a former warehouse building which is to be soon advertised for requests for proposals to restore and redevelop for retail and other uses compatible with the waterfront reuse, a fuel storage depot formerly owned by the Irving Oil Co., a coal storage dock, and another warehouse, all of which are to be demolished.

In addition, we have further followed the advice in the Lane, Frenchman report by hiring the firm of Webster-Baldwin-Rohman-Day-Czarnecki to undertake a more definitive land use plan for not only the Front Street area, but also the entire waterfront area between the Joshua Chamberlain Bridge and the I-95 Bridge, extending back to Main Street. This project has been completed at an additional local cost of approximately \$25,000., and presents numerous concept plans, zoning recommendations, design guidelines, etc. This report is in the process of being printed at the present time, and will be forwarded to you in the near future. In the meantime, I am enclosing a few of the conceptual plans which dramatically show the impact that this project can have on the community. We have been negotiating with the Maine Central Railroad on the reuse of the switching yards, which hopefully are to be moved out of town, and the Railroad has indicated a strong interest in the redevelopment of their property through a joint venture arrangement. There has been considerable interest by private developers in becoming involved in this project, which we feel could completely change the character of our community, bringing it back to the point when the waterfront was the focal point of the City approximately a century ago.

We are extremely excited about the direction that this project has taken, and we certainly appreciate all of the help that the CZM program has given, for without the very early efforts to thoroughly examine the potential of this area with the grant funds that you have provided, we doubt that there would be any changes yet contemplated in the waterfront.

Very truly yours,

*John T. Frawley*  
John T. Frawley,  
City Engineer

JTF:jrp  
Enc.

# Underwood Plant Site Favored In Tremont Waterfront Study

10/15/87

By Earl Brechin

A review of possible sites for a municipal pier and boat launching ramp in Bass Harbor has identified the former Underground Canning Company Plant as the most attractive of all locations studied, Tremont officials revealed this week.

In a draft report on municipal harbor access, which will be

submitted to the Town Council and Ames Corp., it is recommended that the Town of Tremont select scheme 4 (the Underwood Plant site) as the best site, the report said. "It is within the long-range goals of providing public access while protecting the fishing fleet

count for eventual appropriation for a town pier and ramp. Presently that account contains nearly \$85,000, Strong said.

Money for the harbor access study was provided by a Maine Sea Grant

## No Agreement on Specific Plan

By Earl Brechin

Tremont's Waterfront Access Committee will most likely go "back to the drawing board," after receiving public comment on several development options at a special public hearing last Thursday.

With a show of hands, the more than 50 people in attendance unanimously favored more public access to the harbor but agreement ended on which proposed development plan offered the best means to that end.

"I guess the Committee should go back to the drawing board," Committee Chair Faye Lawson said, asking that anyone with "bright ideas" contact her with their suggestions. "Clearly you are not enthralled with these plans. We'll keep looking."

On Thursday, the Committee unveiled several waterfront access

options prepared for the town by Ames Engineering. Alternatives included sites in Bernard as well as Bass Harbor. Some plans consisted of separate facilities for commercial and recreational boaters while others combined the two.

All of the plans would cost several millions of dollars to build. The cost of acquiring land for the facilities was not included in estimates.

"Our concern was not with dollars but simply to look at what are the best possible sites," Lawson said.

According to Lawson, Tremont is facing two waterfront-related problems. "First there is the question of how to provide access to the harbor. Right now the Town has little more than a postage stamp of land around the harbor," Lawson said. She added that the second dilemma is how to provide proper land use

regulations to protect public access once it is established.

"We've got to set the direction for the Town's growth, not just let things go on willy nilly," she said.

Attention during the hearing centered on a scheme that proposes modifying the former Underwood Canning Company plant and wharf. That option was favored by both Ames and the Harbor Committee.

Longtime skipper and lobsterman Dick Black disagreed. "The Underwood Plant is the most dangerous place for a landing. It is exposed to southwesterly winds," Black warned. Other fishermen and recreational boaters agreed with his assessment.

Black added that the tidal surge through the area further compounds maneuvering problems. He explained that in the past he had seen

many experienced skippers get into trouble near the plant when the weather changed suddenly. Even if a sheltered area were built behind the wharf, as has been proposed by Ames, the rest of the facility would be dangerous, Black said.

Black also took issue with the Town's approach to funding any proposal. "First we need to find out what we've got to work with for money," Black argued.

Committee member Tom Goodwin explained that the Town needed to have plans ready so that it could apply to grants and other funds when they become available. "You can't get the money without plans. Once we have the plans then we can search for the money. Then we can decide what the taxpayer might have to contribute," Goodwin said. "This has nothing to do with the taxpayers right now."

Already the Town has \$70,000 in a special account to pay for harbor improvements, he added.

Money for the waterfront access study was provided by a State Planning Grant with Tremont contributing \$3,000.

Black continued to disagree, suggesting that the Town should first decide what it wanted to spend and then design accordingly.

"A fellow has to decide up front if he wants to buy a Chevrolet or a Cadillac," Black said.

One resident suggested that if the aim were to preserve access for commercial fishermen, perhaps strict zoning could accomplish the task with little cost to the Town. Selectman Kim Strauss himself a waterfront property owner, disagreed, stating that such action would be unfair. "It is a question of fairness," Strauss said. "If the Town doesn't want to do it (provide more access) then it is fair to do it by zoning and put it on the backs of individuals?" he asked.

In an effort to set a feeling-about

which "plan the public favored, Lawson conducted a straw poll of six different options. Most schemes elicited only one vote, some none.

Lawson indicated that the access committee would continue to research alternatives.

Also on Thursday, progress concerning possible zoning changes in the waterfront moratorium area were discussed.

Planning Board member John Brown told the meeting that response to a development questionnaire circulated by his board had been excellent. "We received a strong, strong response for town-wide zoning," Brown said.

At a special town meeting in June, Tremont voters approved a moratorium on multifamily housing development in a wide band around the harbor. That moratorium expires in March when Tremont holds its next regular town meeting.

Brown explained that while no concrete changes have been proposed, some changes in the shoreline districts would be forthcoming. Establishing setback requirements for various land use activities would be included, Brown said.

Resident Stan Grierson outlined his concerns over development pressure and its impact on groundwater supplies. He questioned whether anyone had ever determined what the maximum capacity might be.

Because of the Town's unique geology, dominated by ledge, the supply may be less than expected, Grierson said. "We are sitting on a powder keg," he warned. His remarks were greeted with applause.

Kim Strauss suggested that perhaps the Town could limit multifamily housing to specific areas. "Most people feel like they don't want them at all," Strauss said.

Brown indicated that additional meetings would be held as the Planning Board continued its deliberations.

## Southwest Harbor Residents Lash Out Against Marina Plan

10/15/87

### Referendum to Address Proposal

By Earl Brechin

Following a massive show of opposition against turning a popular operating pond into a parking area, southwest Harbor officials voted Tuesday night to delete the controversial part from a planned multi-million dollar marina proposal. Southwest Harbor Selectmen and members of the Town's Harbor Committee met following a hearing on the

proposal to build a new wharf and pier complex on Little Island. That complex would include floats and ser-

## Camden Agrees Study Of Harbor Use Needed

by Michael O'D. Moore  
Staff Writer

CAMDEN — With mooring space running out, and two recent harbor related lawsuits, selectmen agreed Monday to consult with the Harbor Committee and devise a plan for future use of Camden Harbor.

"When talking about harbor management," said Town Manager Paul Weston, "Camden needs to address what we want out of the harbor. Some people think the schooners do a lot for the town and we should let them in for free. Others feel we should break even at the harbor. Others harbor."

"I see increased demand in the future," Weston said. He added that the three or four people vying for the use of town docks will be nothing compared to future pressure.

"I'd like to see a statement for the direction the harbor will take in the next few years," Weston said.

"If we act responsibly we won't have any lawsuits," said board member John Fullerton, referring to recent lawsuits filed against Camden. John Nugent and Paul Crowley, who filed the suits, felt their harbor use applications had been unfairly denied.

Nugent announced Monday that a compromise with the town had been reached allowing his daysailer Old partial use of the town dock, while Crowley's restraining

order request against the town and Harbor Master Ken Miller is scheduled for hearing at 8:30 a.m. Friday in the Knox County Superior Court.

Fullerton said that once a policy is set and followed there is no opportunity for discrimination.

Selectmen Claire C. Frye worried that the selectmen were giving away their work in asking the harbor committee to do so much.

"We as selectmen have to look at everyone's best interest. The Harbor Committee has vested interests. It's bad to ask the Harbor Committee to work, work, and then have them come in and have us reject them. We have to work for the good of the whole town."

Board Chairman Harry C. Mank responded that the Harbor Committee is an advisory committee and the members understand that. The selectmen will look at the possible options and recommendations presented by the committee and agree, disagree or ask for more information, he explained.

Sid Lindsley, Harbor Committee vice-chairman, said the committee "would like a list of items to attack."

The selectmen decided to meet with the Harbor Committee July 2 and present a memorandum with selectmen comments outlining harbor objectives. Items noted for consideration include lease categories and fees, the number of mooring licenses available and the order of priority in awarding them, and changes in the harbor ordinance itself to comply with any

Rockland Courier-Gazette 6/15/87

# Dredging of Jonesport Harbor

## \$20 million worth of construction to have major impact on Jonesport

By Clayton Belau  
Down East Bureau

JONESPORT — Several major construction projects to cost about \$20 million may bolster the overall economy of this small fishing village within the next year.

Most of that economic surge is expected to endure for at least a few years.

### Jonesport Harbor project to boost area

By Clayton Belau  
Down East Bureau

JONESPORT — The annual increase in the Jonesport project will exceed \$1 million.

Most of the jobs generated as a result of the project will be short-term jobs, but a portion of the work will last for 18 months. According to the Jonesport Planning Board's summary of the job market in the Waterville Action Plan, this relatively shallow water is needed in this area to accommodate the local residents have in mind.

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The average income in the county is at a level 80 percent above the average income in the state.

The harbor improvements will be a net gain for the town.

The new entrance channel will be a cost of more than \$200,000.

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## Entrance Channel to Begin

By Mary Anne Clancy  
Planning Board  
presented its Waterfront Action Plan to Jonesport residents last month and work will begin on the first priority area of the plan in late December.

Working under part of a \$7.2 million Army Corps of Engineers

project, the Army Corps will dredge the cove, and a 12-foot foot breakwater will be extended into the harbor to extend the entrance channel to Jonesport's Sawyer's Cove before the end of the year.

Officials believe the dredging of the entrance channel, morning area, and the cove's rockfill area will be completed in the spring of next year, allowing work to begin on the town's new \$1.2-million harbor.

Although the Army Corps of Engineers has agreed to fund the project for \$7.2 million, the total project cost is estimated at \$8

million, with the remaining funds to be raised by the Town through a combination of Community Development Block Grants, the Governor's discretionary funds, the Department of Transportation and a possible Farmer's Home Administration loan.

The breaker will be completed in 1988, if all goes according to schedule, and the Town's local fishing fleet will have a protected, 15-acre anchorage composed of nine acres six feet deep, and six acres eight feet deep.

The new entrance channel will be 100 feet wide and eight feet deep. The Army Corps of Engineers projects a savings of \$1.124 million over the reduction in boat and mooring damage is added to the increased fishing hours.

The breaker project is the first of eight priority areas in the overall plan. Other priority areas include: an estimated \$7.4-million sewer or water system to alleviate downtown Jonesport's problem with surface and groundwater contamination, which has led to the closing of some clam flats in the area; securing public boat and walking access to the ocean; work on the Town's Main Street to include off-street parking

## Off-street parking in Jonesport future

By Clayton Belau  
Down East Bureau

JONESPORT — New sidewalks and off-street parking are being planned to improve Jonesport's downtown commercial area, and a

## Report recommends town ownership of marina

By Clayton Real  
Down East Bureau

JONESPORT — The marina at Sawyer's Cove, owned by the Planning Board's Waterfront Action Plan, is an important asset and principal point of access to Moosehead Lake.

If the town acquired the marina from the state, the facility would be improved.

Although the marina seems to be in the cellar on the Planning Board's

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## SEARS ISLAND REPORT

### Showdown in Searsport

A proposed state-owned marine cargo terminal at Searsport appears to be heading for a final showdown between its Maine backers and federal environmental regulators. Elizabeth Higgins, assistant director for environmental review at the Federal Environmental Protection Agency (EPA) in Boston, warned the Maine Department of Transportation (DOT) that it intends to review "carefully and extensively" the final environmental impact statement on the \$29 million Sears Island project issued this week.

Higgins said that a cursory review of the final DOT report already revealed a glaring omission. The consultant hired by Maine officials to prepare a market analysis ignored a report submitted last April by an EPA consultant that cast doubt on the project's ability to attract cargo. "I hope that the (DOT consultants) made use of the data, even if they didn't cite it in their report," Higgins said.

The EPA, a leading critic of Maine's environmental review process, has veto power over a dredging permit needed by the state from the U.S. Army Corps of Engineers. Higgins has said that EPA will not approve the permit unless Maine officials can prove that there is a need for a marine terminal along the mid-Maine coast and that undeveloped, 900-acre Sears Island is the only feasible site for the project.

The final environmental impact statement, which expands on a widely criticized preliminary report issued a year ago, reaffirms the DOT's original support for the marine terminal even though it concludes the project would not be profitable. Because it will be supported by tax dollars, the Sears Island project does not have to meet traditional private-sector tests of profitability. The impact statement estimates the \$29 million terminal would attract 116,000 tons of cargo a year when fully operational, or barely one ship a month, and dockage fees of less than \$500,000 a year. But state subsidies will help support 137 jobs with an annual payroll of \$3.7 million. In addition, Maine companies are projected to save \$900,000 a year in transportation costs by using the new terminal.

Higgins and the EPA, however, have never believed those projections, and they commissioned a separate study last spring to examine whether Maine companies would actually use the Sears Island terminal. The EPA's report, which the DOT consultants apparently have ignored, found not

only that trucking goods to Boston would remain more cost-effective, but that Sears Island was not even the best site for a terminal. The EPA consultants said last April that a mainland facility using existing wharves at nearby Mack Point would be cheaper and have less environmental impact, and they confirmed this week in a separate report that the DOT consultants had introduced no new evidence to make them change their minds.

Maine Times 9/18/87

### SEARS ISLAND Cargo slow-go

8/14/87  
The regulatory squabble over the Sears Island Cargoport drags on — the result being that state officials now do not expect construction to resume before the end of the year.

A federal appeals panel halted construction in 1985, ruling that state and federal officials had failed to conduct a full environmental review as required. Since then, drafting and re-drafting of the required environmental impact statement has generated questions about the project. While circulating a draft of the statement a year ago, state transportation department officials talked about resuming the \$28-million project early this year. In March, Governor McKernan said he hoped construction would begin again in October. Now, deputy transportation commissioner Russ Spinney is looking at a start-up date in January or February.

While a variety of agencies hammers out the final draft of the environmental impact statement, the federal Environmental Protection Agency (EPA) points to a consultant's report it commissioned that suggests expanding the existing port facilities at nearby Mack Point, rather than developing the nearly untouched island at the head of Penobscot Bay. "We are still working with [EPA] on aspects of that," Spinney reports. "Whether or not EPA is satisfied is still to be determined." If EPA officials decide the cargo port is unnecessary, under federal law they could block the required permits.

The Sierra Club, which filed the original suit to force the drafting of the environmental assessment, does not feel out of its element arguing against the project on the grounds that it might be a waste of money, rather than complaining about ecological damage. "Many of our important environmental battles of the future may be won on the strength of economic arguments," says Priscilla Chapman, executive director of the club's New England chapter.

# Court asked for ruling on waterfront development

P/H  
6/3/87

By BRYAN McNULTY  
Staff Writer

The city of Portland Court on Thursday filed papers asking the Superior Court to decide whether the city's new waterfront zoning would fulfill the requirements of the developer's plan for the \$4 million construction project.

The city is refusing to issue a building permit to the Liberty Group to build a 91-unit condominium on old Central Wharf until a judge says whether it will be uncomfortable with the possibility of not being able to use city permits.

City Manager James Grimes said he was "within his rights" in issuing a "granny permit" to the developer before a building decision was made.

The city relief the building permit because there predicted that a final decision would likely be made "within four months," said Deputy City Manager David Lourie.

The city filed a complaint with the state planning office, asking the agency to determine if the new ordinance is legal.

"I think it's a good idea for a lot sooner," said Lourie, "but I think otherwise the 68,000-square-foot wharf can be used to qualify for a city permit." The city's comprehensive plan adopted by the council in 1985 prohibits new buildings from being built on wharves.

The city is asking the state planning office to determine whether the city's power to regulate berthing space is constitutional.

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The city is asking the state planning office to determine whether the city's power to regulate berthing space is constitutional.

On Friday, the court heard arguments from both sides. The developer argued that the city's action violated its constitutional rights.

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*Portland planning board approves*

## Developer's berthing relocation plan okay

**PORLAND, ME** - Following many months of debate, this port's planning board has narrowly approved a condominium developer's plan for removing fishing boat berthing space from its wharf and "relocating" the boats to other wharves in the harbor.

By a 4-3 vote at its May 26 meeting, the planning board decided that the Liberty Group's proposal for moving 700 linear feet of commercial fishing vessel berthing space to Hobson's Wharf would fulfill the requirements of the waterfront zoning ordinance.

Over two years ago, the Liberty Group bought Central Wharf and received city approval for construction of its now complete 91-unit condominium project. Central Wharf, which was renamed Chandler's Wharf by the developers, is located in the city's mixed-use W-1 zone. The ordinance permits residential housing on the wharves in the W-1 zone provided that fishing vessel berthing is allowed to stay, or as long as the housing doesn't displace berthing that couldn't "reasonably relocate elsewhere in Portland Harbor."

Since late 1985, when the Liberty Group's proposal for relocating the fishing boats became known, the question of whether there is any "reasonable" place to relocate berthing in this crowded harbor has been debated before the planning board.

According to David Cope of the Liberty Group, the developers were responsible for relocating 700' of berthing space for the 10-12 boats

that were tying up at Central Wharf when it was purchased in 1985. Two vessels later voluntarily moved to Union Wharf.

In February 1986, Liberty Group signed a five-year lease for 700' of linear berthing at Hobson's Wharf, which was still under construction at the time. The berthing at Hobson's became available in April 1986, which is when the lease began.

Whether the space at Hobson's was utilized or not, Liberty Group had agreed to pay Hobson's Wharf Associates \$4.50/ft the first year, \$5.50/ft the second and third years, and market rate the final two years. But vessels that moved over to Hobson's from Chandler's Wharf were only charged \$3.00-\$3.50 during their first year of relocation, with Liberty Group subsidizing the remainder of the rent. According to Liberty Group, this was done because of the inconvenience caused to fishermen by the Chandler's Wharf construction. As of April 15, though, rates were increased to \$4.50.

Although the Hobson's Wharf lease began in April 1986, the city planning board had not approved the berthing relocation plan. At a July 8, 1986 public hearing on the issue, many fishermen spoke against the plan, and on Oct. 28, the plan was stalemates when the planning board's vote on the issue resulted in a 3-3 tie.

Opponents of the plan have argued that relocating boats from Chandler's Wharf would result in a net loss of berthing in the harbor. They said the Hobson's Wharf project with its addition of 1500' of berthing would



In May, Portland voters passed a referendum that will stop new condo projects in the harbor for 5 years. Liberty Group's 91-unit condo pictured above was built on Central Wharf in 1985-86.

have happened even without a lease agreement from Liberty Group.

Planning board chairman Jack Humeniuk took exception to that point at the May 26 meeting. He said discussions in 1985, when a group of fishing industry people were putting together financing to buy Hobson's Wharf, led him to believe that the Finance Authority of Maine might not have provided financial backing for the Hobson's project without a long-term tenant commitment. "One helped the other to happen," said Humeniuk. "Maybe they weren't dependent on each other, but they were certainly intertwined."

According to the city's Associate Corporation Counsel, Richard Flewelling, "Whether or not a shortage of berthing exists shouldn't have anything to do with how the ordinance is interpreted. Those are

two separate issues." He said it was the responsibility of the planning board to decide whether or not the intent of the original zoning ordinance was met.

"I don't think it is my prerogative or responsibility as a board member to vote my visions for this city," said John Barker. "As the ordinance was written, it was clearly the intent of policy makers that relocation could and would be permitted if a standard was met. It was a standard of reasonableness."

"It's very difficult, unless you don't believe in relocating at all, to say that this is unreasonable," said board member Kenneth Cole III of Liberty Group's relocation plan.

Cole is the newest member on the planning board. His vote broke last October's tie vote.

Janice M. Plante

Southwest Harbor and Jonesport, and waterfront issues in Searsport and Portland.

6. Coastal Access Activities

Controversy and questions over the Superior Court decision in the Moody Beach case in Wells as described in the Issues section of this report overshadowed all other coastal access concerns. See also clipping regarding Tremont's CZM-funded harbor access study under Item 5 above.

7. Permit Procedure Simplification

The 1987 Legislature enacted several statutes simplifying permit procedures. LD 167 (PL 274) expands the authority of the DEP Commissioner and staff to act on certain categories of applications (given in 38 MRSA 344) to include: (1) structures at an existing industrial or commercial facility which do not increase the square footage of ground area covered by more than 50 percent, under the Site Location of Development Law and (2) incinerators or boilers with capacities up to 250M BTU's per hour (formerly 150M) or which do not result in a net increase in emissions at any industrial or commercial facility.

The Legislature simplified aquaculture permitting by exempting marine aquaculture operations from DEP's wastewater discharge licensing requirements, leaving permitting up to the DMR but with water quality certification still performed by the DEP (see LD 1751 [PL 372] and LD 1840 [PL 453]).

See Exhibit D-1 in Appendix D for more information on these new laws, and the clipping reproduced below regarding the DEP's efforts to expedite processing of applications.

8. Activities to Protect or Restore Historic, Cultural or Aesthetic Resources, or Redevelop Deteriorating Waterfronts & Ports

See letter and clippings regarding Bangor's waterfront revitalization program under Item 5 above, and clipping on Maine's historic lighthouses under Item 15.

9. New Memoranda of Understanding

See Appendix A, Task 4.B.1.

## Speedier action by DEP sought

### Commissioner tries to avoid staff increases

By Nancy Remsen  
Of the NEWS Staff

Applicants complain.  
Members of the Board of Environmental Protection scowl.

Staff at the Department of Environmental Protection wring their hands.

They all want something to be done about the sluggish way in which environmental regulation takes place at the state level.

"We have 1,100 applications pending in the land bureau right now," said Dean Marriott, commissioner of the DEP since February. Applications in this bureau include requests to put ramps into lakes, repair bridges, build homes or condominiums

on dunes, develop subdivisions, expand ski trails, dredge wetlands and clear and grade land near streams. Members of the staff presently are carrying about 50 cases each, Marriott said.

In the Bureau of Oil and Hazardous Materials Control, a newly established hotline has identified at least 78 potentially hazardous sites around the state in need of attention, Marriott said. "That is on top of the 200" that already had been targeted as problems, he said.

Many have argued that the DEP needs more staff to handle its expanding responsibilities. But the McKernan administration came to power with the position that the bureaucracy in Augusta was already big enough.

"We have to find a way to stretch our resources," said Marriott, carefully remaining noncommittal on any need for additional personnel, despite the burden he knows his staff is under. "Before we ask for more resources ... we've got to show that we've done everything we can internally" to improve the department's efficiency, he said.

Two efforts are underway to try to speed up what goes on at DEP.

First, the department has hired a consultant to look "at the way we process our paperwork and the way we handle communications," Marri-

ott said. The study is expected to take three months.

In meantime, Marriott ordered his staff to focus their efforts for the next 90 days on "reducing the backlog of pending applications." At the same time, he has appointed some employees to "working groups" to come up with ideas for "new policies, new procedures, new regulations on how we handle licensing," he said.

For example, why can't an application from an individual seeking to put a dock on a lake be considered differently from an application from Hydro-Quebec seeking to run transmission lines through the state? Marriott asked. He already has suggested that small and routine projects might be approved without review, with the understanding that they must be done according to a set of standards.

"So while we are trying to whittle down the backlog, we are going to have some people working on ways so it doesn't develop again," Marriott said.

"By January, we'll have the results of our (consultant's) study and of our efforts," he said. Armed with this information, Marriott will go to the governor and "hash over the results," he said.

Are more people the solution? "I just don't know the answer to that now," Marriott said.

BON 9/19-20/87

10. Report on the Federal Consistency Review Process & Coordination Activities

See Appendix A, Task 3.A.

11. Public Awareness Activities

See Appendix A, Task 4.B.

12. New Publications Report

See individual work tasks. Also, a list of reports and other products as of Sept. 14, 1987 under CZ109 (1985-86) and CZ087 (1986-87) was transmitted to the OCRM by letter of October 5, 1987.

13. Changes to Coastal Zone Boundaries & Management Authority

A new draft routine program implementation (RPI) package describing 1986 changes in Maine's core law authorities was transmitted to the OCRM in July for informal review and comment. A supplemental analysis was submitted September 9, 1987 in response to ORM's letter of July 15, 1987.

14. Changes in Strengthening the Management of Coastal Resources

Numerous changes were made by the 1987 Legislature which strengthen the management of coastal resources. Most of these changes are outlined in Exhibit D-1, "Results of the 1987 Legislative Session," reproduced in Appendix D.

The more noteworthy changes are as follows: Obsolete laws regarding the authority of harbor masters are replaced with a new Harbor Master Law (LD 1794). The authority of municipalities to regulate structures built on a wharf or pier in their Shoreland Zoning Ordinances is clarified (LD 138).

A loophole in the Subdivision Law allowing long narrow waterfront lots of over forty acres without review is eliminated (LD 1764). Enforcement of the Freshwater Wetlands Law is strengthened by adding it to the jurisdiction of the District Court (LD 864); enforcement of the LURC Law is strengthened by increasing penalties to a deterrent level and permitting the courts to order restoration of areas in violation (LD 1740).

Timber harvesting is prohibited in resource protection districts around great ponds under the Shoreland Zoning Law (LD 1868).

A variety of measures provide better ground water protection (LD 836). Transportation of water in significant quantities beyond the boundaries of the municipality in which it is located or any bordering municipalities, except by a water utility, is prohibited; funds are appropriated to complete the State's sand and gravel aquifer mapping program (LD 1117). Well contractors are required to submit reports to the MGS on new wells, providing a significant source of information on the state's ground water resources (LD 1597). New overboard discharges of domestic pollutants into State waters are prohibited (LD 1268). Proper sewage disposal in the shoreland zone is furthered (LD 1761).

Maine's solid waste laws are rewritten to establish a comprehensive framework for the safe management and disposal of solid waste, hazardous waste and waste oil (LD 1862). The DEP is enabled to place a priority lien on property where it has expended funds to clean up uncontrolled hazardous substance discharges (LD 1868).

Finally, the laws for leasing submerged lands for aquaculture are updated and improved (LD 1840), and a study is mandated to evaluate whether current staffing and funding levels are adequate to accomplish the mandate given the Critical Areas Program (LD 1456).

See also Coastal Issues & Accomplishments in the first section of this report.

15. Major Coastal Issues & State Role

See Coastal Issues & Accomplishments in the first section of this report and the clippings on the following pages.

16. Sub-awards to Minority or Female-owned Businesses

Information not available.

## SUBDIVISIONS MT 6/15/87

### Moratorium lifted

Old ways Downeast die hard, as supporters of tough new rules on sewage discharge and large-lot subdivisions learned to their dismay earlier this month in the Washington County town of Cutler. After enacting a one-year moratorium last year on new subdivisions, Cutler residents voted at a special town meeting June 17 to end the moratorium without approving any new controls on development.

The main beneficiary of the balloting will be Ellsworth-based developer Norman Langdon, whose 32-unit subdivision proposal on pristine Western Head overlooking Cutler Harbor led to the development curb last August [MT, 9/5/87]. In the interim, the town planning board proposed major revisions to the Cutler land use ordinance, including upgraded road standards, larger setbacks and the hiring of a code enforcement officer. Other proposals included a ban on new private sewage discharges and an increase in the minimum lot size subject to town review, aimed at Langdon's proposed five-acre lots.

All of those proposals met defeat, however, at the hands of town voters at a meeting that supporters of the new ordinances termed a "carnival." Lobsterman Jasper Cates Jr., whose daughter, Cynthia Rowden, is the town first-selectman, reported that opponents of the proposals heckled and made catcalls as members of the town planning board attempted to explain the articles on the town meeting warrant. The ranks of the proponents were thinned, Cates added, by a graduation that evening at the local elementary school and the beginning of the lobster spawning season, which kept some lobstermen away from the meeting.

"We had a developer who dangled visions of sugarplums in front of their eyes," said Cates. "I hate to say this about my neighbors, but some of them just have not learned to think." Langdon last year estimated the Western Head house lots would sell for \$150,000 apiece, and he has recently offered the planned subdivision for sale for \$2 million.

Cates and 120 other fishermen have signed petitions asking the state not to grant an overboard discharge permit to Langdon for 11,000 gallons of treated sewage a day. They argue that areas of Cutler Harbor are prime spawning grounds for the North Atlantic herring, which might be harmed by chlorine discharges.

But Delia Mae Farris, a Cutler native now living in Damariscotta, says the majority of local residents who voted 83 to 66 against the ban on new overboard

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Department  
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role in the  
lawsuit that  
this year.

### By The Numbers

Moratoriums on development are a good index of Maine's real estate boom, but keeping track of the Maine towns that have adopted them isn't easy. No single agency has tried. The best sources of information are the staffs of Maine's 10 regional planning commissions, which offer short-term and long-term planning help to many of Maine's 454 municipalities.

The list below includes towns with current or recently expired moratoriums, as well as those planning to vote on a moratorium proposal shortly. Many regional planners note that moratoriums are no longer the exclusive tool of towns in hard-pressed southern Maine or along the coast. Inland lakefront towns such as Rangeley and Smithfield have recognized that a moratorium buys time until comprehensive plans or zoning ordinances can be adopted. So have bedroom towns along the Interstate 95 corridor. "The threshold that towns have before considering growth an emergency varies," notes Ellery Keene of the Northern Kennebec Regional Planning Commission. Judging by moratoriums, Keene adds, the development boom has spread up the Interstate 95 corridor about as far as Waterville. "It still has a lot of corridor to go," he says.

## Population graying, growing

By PAUL CARRIER  
Guy Gannett Service

AUGUSTA — Maine's population is expected to grow by close to 6 percent from 1985 to 1995, with southern Maine and some coastal areas recording substantial increases while Aroostook County continues to lose people.

At the same time, the state will mature as the number of teen-agers and young adults declines and Mainers 35 and older emerge as a growing force in the general population.

Those are the conclusions of a state researcher whose population projections show Maine topping the 1.2 million mark by 1995, a jump of more than 67,000 people from the 1985 estimate.

The report, by Dale E. Welch of the Office of Data, Research and Vital Statistics, predicts that all but two of the state's 16 counties will grow in the next few years, with Aroostook County continuing a slide that was first recorded as far back as 1970.

Washington County also is expected to drop in size, but the loss there is projected at less than 1 percent, compared to a 7 percent decline in Aroostook County.

By contrast, projections call for Cumberland County to gain more than 19,000 people, an increase of 8.5 percent that would boost the county figure to 245,750 residents, or about 20 percent of the state total.

The jump will be even more dramatic in York County, where projections call for a 14 percent increase of 21,550 people, pegging the county total at 174,650, or more than 14 percent of Maine's population.

"What stands out is the rapid population growth in southern Maine," said Richard A. Sherwood, senior planner in the State Planning Office. "That's just part of a trend that's been going on" for some time.

### Population projections

Source: Maine Office of Data, Research and Vital Statistics

	1985	1995	% Increase
Androscoggin	100,600	102,500	1.8
Aroostook	88,500	82,250	-7.0
Cumberland	226,300	245,750	8.5
Franklin	28,950	31,200	7.7
Hancock	44,100	49,000	11.1
Kennebec	112,400	116,750	3.8
Knox	34,800	38,750	11.3
Lincoln	28,150	33,050	17.4
Oxford	50,000	52,700	5.4
Penobscot	138,150	139,100	0
Piscataquis	18,000	18,800	4.4
Seagadahoc	30,200	30,950	2.4
Somerset	46,950	50,250	7.0
Waldo	29,500	31,500	6.7
Washington	34,300	34,100	-0.5
York	153,100	174,650	14.0

Press Herald graphic by Patrick Davis



than the county figures, with slow growth or population drain anticipated in some urban areas that are surrounded by faster growing suburbs and rural communities.

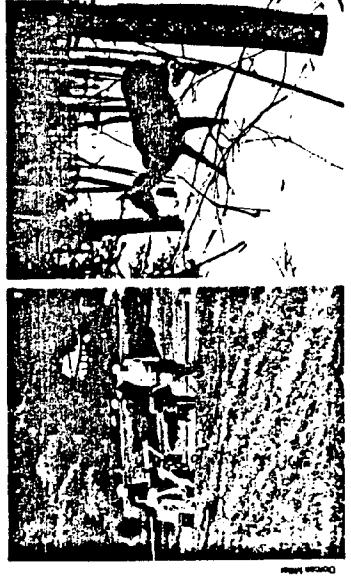
Portland's 10-year growth rate is pegged at 5.2 percent and South Portland's at 4.7 percent, compared to more than 8 percent for Cumberland County as a whole.

City projections tell a different story

Town	Purpose	Status (in force unless otherwise noted)
Belgrade	new subdivisions and multifamily dwellings	
Castine	sewer hookups	
Cherryfield	major projects	
Cumberland	new subdivisions	
Cutler	Chebeague Island development	
Durham	new subdivisions	
Falmouth	multifamily dwellings	
Fairfield	Route 1 corridor	
	new construction	
Fayette	new construction	
Gardiner	conversions to multifamily dwellings	
Kennebunk	construction over designated aquifers	
Kennebunkport	new construction	
Manchester	multifamily dwellings	
New Gloucester	new subdivisions	
Northfield	new subdivisions	
Orland	new subdivisions	
Portland	waterfront development (non-marine-related uses)	on town meeting warrant
Rangeley	multifamily units	
Raymond	new subdivisions	
Smithfield		
South Berwick	major transportation corridors	
South Portland	waterfront development	
Stonington	waterfront development	
Swans Island	new construction	
Tremont	waterfront development in Bass Harbor	on town meeting warrant
Waldoboro	condominium subdivisions	
Windham	residential subdivisions	
Winthrop	multifamily dwellings in the shoreland zone	
Yarmouth	subdivisions	
		recently expired

MAINE TIMES 6/11/87

## Deer yard for sale?



management plan for the Falmouth area or acquire 20 acres for wildlife habitat. When these ideas failed to meet with approval, Woodlands said it would be willing to contribute \$150,000 toward a wildlife study and land acquisition, or purchase 100 acres just north of the proposed development and work with the town of Falmouth to protect 40 acres of town land.

The Council, Maine Audubon Society, and the Departments of Inland Fisheries and Wildlife and Environmental Protection each took a different position on the mitigation plans. The Council argued that, played out to its logical conclusion, the board's approval of the land swap would reduce by one-half the wildlife habitat in the southern part of this state. Elimination of critical wildlife habitat, such as important deer wintering areas, can only mean reduction in the size of wildlife populations unless there is enough surrounding habitat to make up the losses. Especially in areas of the state that are facing rapid development, such as Falmouth, the likelihood that there will be sufficient habitat to preserve wildlife populations is becoming increasingly doubtful.

Although the Department of Inland Fisheries and Wildlife at first opposed the project, it later recommended that the Board of Environmental Protection seriously consider the offer to land a wildlife study, even though IF&W itself was already conducting a similar study in southern Maine.

Maine Audubon Society, which opposed the study, supported the plan to buy 100 acres and preserve the 40 acres of town land because some habitat would be preserved, even if it weren't the original deer yard.

Staff at the Department of Environmental Protection recommended that the board opt for the \$150,000 proposal on the grounds that it was better to study wildlife in the area, produce a wildlife management plan, and acquire land and conservation easements than to purchase 100 acres of land as compensation for the loss of important deer wintering areas.

Ultimately the board approved the project and the 100-acre mitigation plan, but added several conditions. The DPP—in consultation with Fish & Wildlife biologists—determined that the 100-acre parcel contains deer wintering habitat of comparable value to the habitat which would be eliminated. That land must be deeded to a non-profit entity or to the impact study.

Background

Last year the Woodlands Corporation submitted a proposal to the Department of Environmental Protection to build a 95-acre subdivision and an 18-hole golf course on 350 acres of land in Falmouth. The tract includes a 140-acre deer yard, which Island Fish and Wildlife staff had identified as important to maintaining existing deer populations in the area.

The developer then proposed a variety of mitigation plans to alleviate the impact of the development. First, the company said it would contribute \$50,000 toward funding a wildlife

impact study.

They will jointly sponsor a slide presentation with the Department of Environmental Protection to present the results of the state's recently completed cumulative growth

background.

The requirements of the Site Law and may set a damaging precedent with respect to protecting wildlife habitat from development.

No one asked whether the developer could scale back the golf course in order to preserve the deer yard," said Beth Nagursky, the Council's land use attorney. "That should have been the first objective—to protect the existing resource."

She added that the Woodlands project poses a larger question about the future of wildlife habitat in Maine. "The Board's decision allows the developer to buy its way out of the requirements of the law and sets a dangerous

# Eastern Point, minus 330 condos, resurfaces Tuesday

By EDWARD MURPHY  
*P.F.Ex Staff Writer*

To paraphrase Mark Twain, the sports of Eastern Point's death have been greatly exaggerated.

Originally announced their plans.

We're treating it as an amendment — it's very similar to the original one.

—

Mark Deahl, die

have been greatly ex

aggerated.

original one.

Where ya two go

Northed? What can a

couple of guys with "

fishing poles do to us?"

—

Then I ear hot the yacht

club right here, and the

condominiums will start

along the new land-till

sea wall."

—

First we tear down that shack,

then we boil up those rotting

pillars. That'll leave

room for the

party boat

pier and the

marina.

—

First we tear down that shack,

then we boil up those rotting

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marina.

## YORK CO. COAST STAR 10/28/87

### State will explain state growth impact study in York

many of Maine's natural

resources, which, according to the

study, are inadequately protected.

The program illustrates the

growing threat to Maine's lakes,

rivers, estuaries, wetlands and

groundwater aquifers.

The second of the two slide

shows based on more than a year

of research, explores the im-

portance of Maine's landscape to

its people, character and

co-

ntributing

to Maine's lakes,

rivers, estuaries, wetlands and

groundwater aquifers.

"The presentations provide

both compelling and timely

descriptions of what is happening

to our irreplaceable resources in

the state and right here at home,"

said Sandra Mitchell, of the

Residents for Responsible Land

Use. "We hope York's citizens

will take an hour and take ad-

vantage of this opportunity to get

accurate information to make an

informed decision before the vote

on the proposed ordinances on

November 3."

## Council steps in to protect wildlife habitat

by Dorcas Miller

Maine's Board of Environmental Protection, in what appears to be the first decision of its kind, has approved a developer's application to build a golf course and subdivide in an important deer wintering area. The board's ruling came after the developer, the Woodlands Corporation, agreed to acquire and preserve 100 acres of nearby woodlands and to work with the town of Falmouth to protect 40 acres of town land.

The Council strongly objected to granting the application and has filed a petition for reconsideration before the board. The Council contends that the decision was wrong under the requirements of the Site Law and may set a dangerous precedent with respect to protecting wildlife habitat from development.

No one asked whether the developer could scale back the golf course in order to preserve the deer yard," said Beth Nagursky, the Council's land use attorney. "That should have been the first objective—to protect the existing resource."

She added that the Woodlands project poses a larger question about the future of wildlife habitat in Maine. "The Board's decision allows the developer to buy its way out of the requirements of the law and sets a dangerous

background.

show, based on more than a year of research, explores the importance of Maine's landscape to its people, character and prosperity. The report concentrates on York County which has grown twice as fast as the rest of the state in the past 25 years.

The report discusses improvements resulting from the economic boom as well as simultaneous increased living costs, including since 1970, a 500 percent increase in the average purchase price of a home in Maine, more than twice the national average.

The state's slide presentation also describes the cumulative effect rapid growth is having on

the Maine State Planning Office will be in York Monday to present the results of the state's recently completed cumulative growth

background.

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The state's slide presentation also provides both compelling and timely descriptions of what is happening to our irreplaceable resources in the state and right here at home," said Sandra Mitchell, of the Residents for Responsible Land Use. "We hope York's citizens will take an hour and take advantage of this opportunity to get accurate information to make an informed decision before the vote on the proposed ordinances on November 3."

# Blue Hill residents resist zoning, but fear development

By JOANNE LANNIN  
Maine Sunday Telegram

K) 10/24/87

BLUHILL (AP) — Being tapped for development. And Blue Hill Mountain has become a symbol of the townspeople mobbed planning board to "Can the Condos?"

The developer abandoned his plans after development would not contaminate wells

rises from the treetops and beyond Main Street and an unchanging backdrop stage.

Since settlers arrived here in the 1600s, the mountain's gentle slopes have been home to blueberries, strawberries, primroses and little else. Townspeople figured that's what they would always see when they cast their eyes to the hills.

But this past winter a local man, Walter Hyler, bought 23 acres on the lowest flank of the 900-foot mountain with the intention of subdividing it into eight house lots. Though the planning board recently denied his first application, many townspeople fear it is only a matter of time before they see a line of rooftops rising from the

houses from being built that can be seen from town," says John Cudlack, a member of the planning board. "When the property was offered for sale last year, that would

still, Blue Hill natives resisted. In late 1985, they voted down a site plan review ordinance. And last fall, the town voted not to update its comprehensive plan, the first step toward any zoning action.

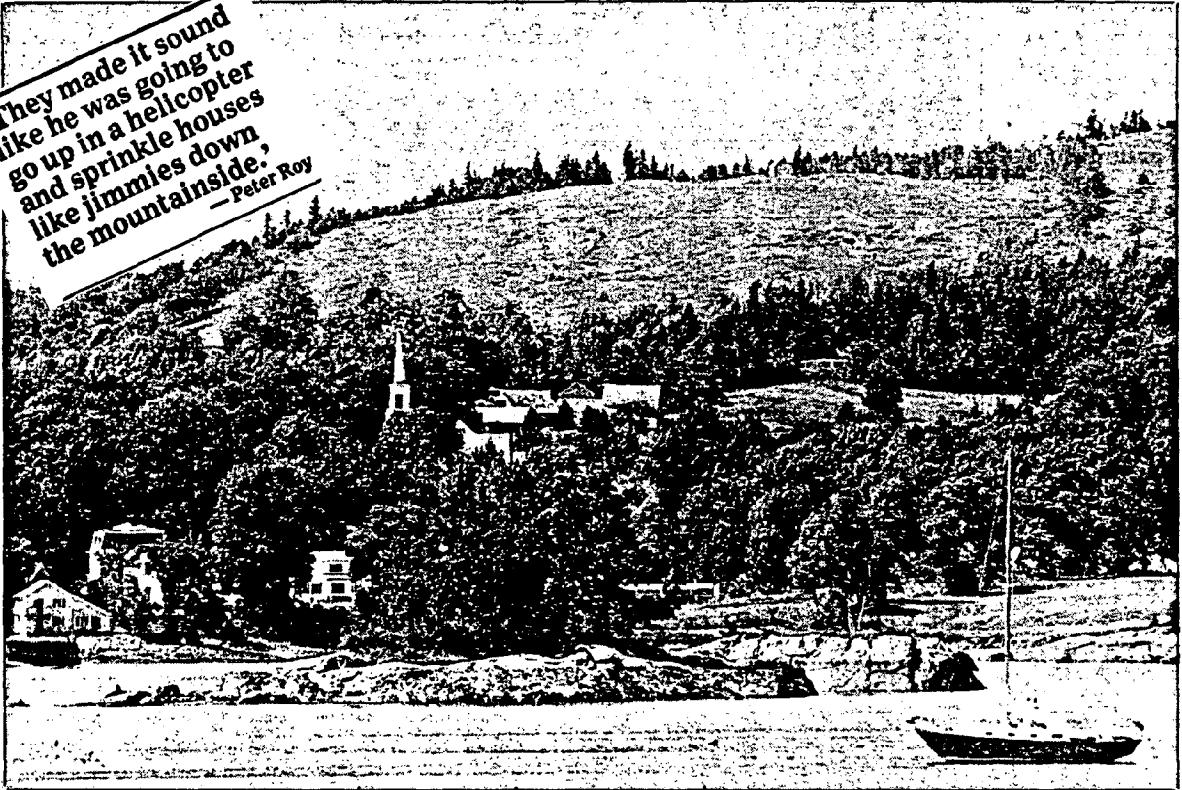
"There is that residual New England feeling that no one wants someone telling them what they can do with their land," says Ruth Austin, a town resident opposed to both the condo and mountain development plans. "It's just ignorance and a lack of familiarity with it (zoning)."

Art Washburn of the Hancock County Planning Commission says there is still resistance to zoning in many towns in Hancock County, despite the fact that it is the second fastest growing county in Maine.

"All coastal towns have shoreland zoning ordinances but beyond that it's pretty shaky," Washburn says. "Hancock County has 40,000 people and a million acres of land. Development is still pretty thin, but it's coming."

MST  
7/5/87

"They made it sound like he was going to go up in a helicopter and sprinkle houses like jimmies down the mountainside." — Peter Roy



The prospect of development in picturesque Blue Hill has so shaken the town that people have begun to talk about zoning, a widely resisted topic there for years.

Staff photos by John Ewing

## Battling growth in Blue Hill

### Proposed development spurs debate

By Joanne Lannin  
Staff Writer

BLUE HILL — Blue Hill Mountain rises from the treetops and church steeples beyond Main Street and the harbor like an unchanging backdrop on a community stage.

Since settlers arrived here in the 1600s, the mountain's gentle slopes have been home to blueberries, strawberries, primroses and little else. Townspeople figured that's what they would always see when they cast their eyes to the hills.

But this past winter a local man, Walter Hyler, bought 23 acres on the lowest flank of the 900-foot mountain with the intention of subdividing it into eight house lots. Though the planning board recently denied his first application, many townspeople fear it is only a matter of time before they see a line of rooftops rising from the

#### once-bare hills.

The prospect of development on Blue Hill Mountain has so shaken the town that people have begun to talk about zoning — a topic resisted widely in these parts for years.

As the demand for real estate along Maine's coast moves Down East, areas once considered too remote or undesirable are being tapped for development. And Blue Hill Mountain has become a symbol of the clash between Yankee values of independence and the desire for control over the direction of growth.

"People feel anybody should have a right to do what they want with their land, but it's past that now," says Peter Clapp, a native of Blue Hill and owner of the Blue Hill Garage on Main Street. "They wish no one would build on the mountain because it's always been the town's — sort of like sacred ground to an Indian."

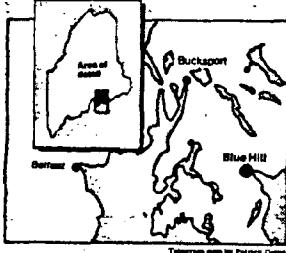
Blue Hill is a small, rural town with one of the most picturesque harbors in Maine. It is only 10 minutes from booming, bustling Ellsworth. But its location, halfway down the Penobscot peninsula, has kept it hidden from all but a few thousand natives, back-to-the-landers and well-heeled retirees for years.

In the past few years though, the demand for summer and year-round housing on Maine's coast has grown. Local developers and those "from away" have begun to notice parcels of land natives left untouched for decades.

Two years ago, a local landowner tried to sell some of his land on Peters Point to a developer with plans for a 38-unit condominium project. Like Blue Hill Mountain, Peters Point is a visible, scenic spot near the town's center.



They were willing to have the town place restrictions on some lots, says attorney Peter Roy.



Tribune map by Patrick Dene



## SUMMER HOMELESS Rents lead to tents

*1/1/87*  
 Summer employees in Maine's resort towns have always had to scramble to find affordable housing. This year in Bar Harbor, some seasonal workers have taken to tents, which have sprouted in vacant lots and backyards all over Mount Desert Island. "With all the rooming houses converted to bed and breakfast places for tourists, where are the employees going to stay?" asks Steve Robbin of the Barcadia Campground, who fielded numerous housing inquiries from desperate seasonal employees he reserves only a few weeks.

"With all the rooming houses converted to bed and breakfast places for tourists, where are the employees going to stay?" asks Steve Robbin of the Barcadia Campground, who fielded numerous housing inquiries from desperate seasonal em-

# ISLANDS

## Stripping down and diving for pennies is one solution.

Islanders are agreeable people, perhaps because they know they can't escape one another. A meeting of islanders, therefore, tends to be a polite affair: questions get asked and answered without much rancor, even when the issues are lurid and questionable, and respondents see poles apart.

The pattern holds at the Island Conference, an annual affair held at the Hurricane Island Outward Bound School. The problems hanging over Maine islands — development, real estate prices, transportation, fisheries, weak island economies — seemed bigger than ever at this year's conference. But the emphasis was on solutions, and participants seemed eager to understand one another, if not agree.

The 1,800-member Island Institute, which sponsors the conference, "celebrates the diversity of points of view about the Maine archipelago," according to director Philip Conkling. The date of diversity represented by this year's opening-day speakers included an aquaculture entrepreneur, a longline fisheries manager, a representative of a Massachusetts real estate subdivider specializing in Maine islands, a town manager battling for a working waterfront, a land bank expert, and a consultant and island resident who found himself helping to develop an island electric power system.

The group working on the power project looked into wind generators as a supplement to the diesel-powered plant on Matinicus, an isolated 650-acre island southeast of Rockland. Their study convinced them that windmills wouldn't do the job, however. Instead, said consultant Francis Bowles, islanders bought new diesel generators and "did a lot of little things" to make the system work more efficiently. The success of the power plant project, Bowles said, demonstrated the importance of identifying various groups with a stake in the project, and then involving them in decisions. Cooperation between island natives and immigrants was "utterly crucial." So was understanding that different groups in the community spoke "different languages."

Spencer Apollonio, a longtime state and federal fisheries official, pointed to the "differing motivations" of the participants in Maine's fishery. Blaming the disappointing results of Maine's fisheries-management efforts on bureaucrats' "failure to hit the bullet," Apollonio said, "is far too easy." He suggested looking at alternatives instead: "the reasons people fish should dictate different management strategies." Protein is the prime consideration in some countries' fishery manage-

ment plans; in other instances fishing is strictly a way to earn money. "There's no right answer to the issue of proper fisheries management — it's a social goal," Apollonio said. "You will find differing perceptions of proper use by different users." Without clearly articulated goals, Maine's fishery will continue to deteriorate, Apollonio said, "until the fisheries become marginal." Apollonio regards aquaculture as an opportunity for islanders, but, without "a positive finding by the Legislature," the opportunity can be expected to diminish.

A questioner wanted to know if Apollonio regarded aquaculture as "benign." Given concerns about pollution and conflicts with other kinds of fishing, "I'm aware of the horror stories," he replied. "But I'm not aware of any substantiated adverse impact in Maine, as aquaculture has been practiced to date."

Aquaculture will become a much greater presence in Maine, if Wallace Stevens gets his way. Stevens, president of Ocean Products of Portland and Eastport, told conference participants his firm hopes to be the largest vertically integrated salmon aquaculture company in the world by 1991. Aquaculture will come to Maine's islands, he said, because they offer good locations for a variety of sea-farming operations. Maine already produces salmon, trout, mussels, clams, and oysters in aquacultural operations. In the future, he said, the state can expect efforts to raise cod, halibut, redfish, haddock, and scallops. "The islanders are an obvious opportunity," Stevens said. Past battles between fishermen and aquacultural developers over seabed leasing, however, suggest that the opportunity won't come without pain.

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Victoria Lyer, Ninhaven's town manager, provided a public official's perspective on island development pressures. Ninhaven has a year-round population of 1,200 (its 5,000 in the summer), 1,100 vehicles, and a deeply indented 120-mile shoreline. It also has a working waterfront, Carvers Harbor, whose character is threatened by development and other forces. Islanders must work for "viable islands and working harbors," Dyer said, adding that it had crossed her mind to organize Ninhaven's women to strip to the waist and dive for summer tourists coins in the harbor. She would like the Island Institute to work on island communities' behalf in the same manner that the Maine Municipal Association lobbies for the interests of Maine towns and cities.

MAINE TIMES 9/25/87

planner William Klein, adding that "we've had a love affair with regulations for too long." Klein pointed to the need to develop other ways to preserve open space, or at least protect land from overdevelopment. "We Americans are still close to the frontier ethic," he said. "We run every place we go. If it's like slash-and-burn agriculture, if we're serious [about preserving land] we have to face up to the just compensation clause in the Constitution. The police power [regulation] can only do so much."

Private initiatives can protect land, too, according to Frank Stewart of Northland Investment Corporation, a real estate developer based in Newton, Massachusetts. Northlands specializes in Maine islands. He described a Northlands project on Long Island, in Casco Bay, involving property formerly owned by an oil company. On Long Island, Northlands wanted to develop a parcel at the island's southeast end. It inured the support of island residents to do so, Stewart said, and it deeded them land for beach access, built a battlefield, and agreed to sell sand, scattering lots it owned to local residents at reasonable prices. The key to the success of projects like the Long Island development, Stewart said, is an owner's willingness to sell at a reasonable price. "You need a seller that can look at the broader picture — somewhere between that outright fight and simply getting the biggest buck in the area I'm excited about," he said. A developer, a seller, and a community can work out a variety of arrangements — covenants, conservation easements, agreements to preserve portions of a parcel, life estates, public purchase, conservation trusts, transfer of development rights — to achieve land preservation goals.

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MAINE TIMES 9/25/87

# Maine's historic lighthouses may receive federal funds

By John Hale  
State House Bureau BDN 7/31/87

AUGUSTA — Two years from now, the nation will celebrate the 200th anniversary of the federal lighthouse program, started by the 1st Congress and President George Washington in 1789.

Maine has 64 lighthouses along its rocky coast, more than any other state, and Portland Head Light, built in 1790, is the second oldest lighthouse in the country.

But with the Coast Guard steadily automating all of its light stations, removing lighthouse keepers and their families, and with little money available for maintenance, many historic beacons are falling into disrepair.

At some points, vandals have preyed on lighthouses, while at others, the structures are simply deteriorating through neglect.

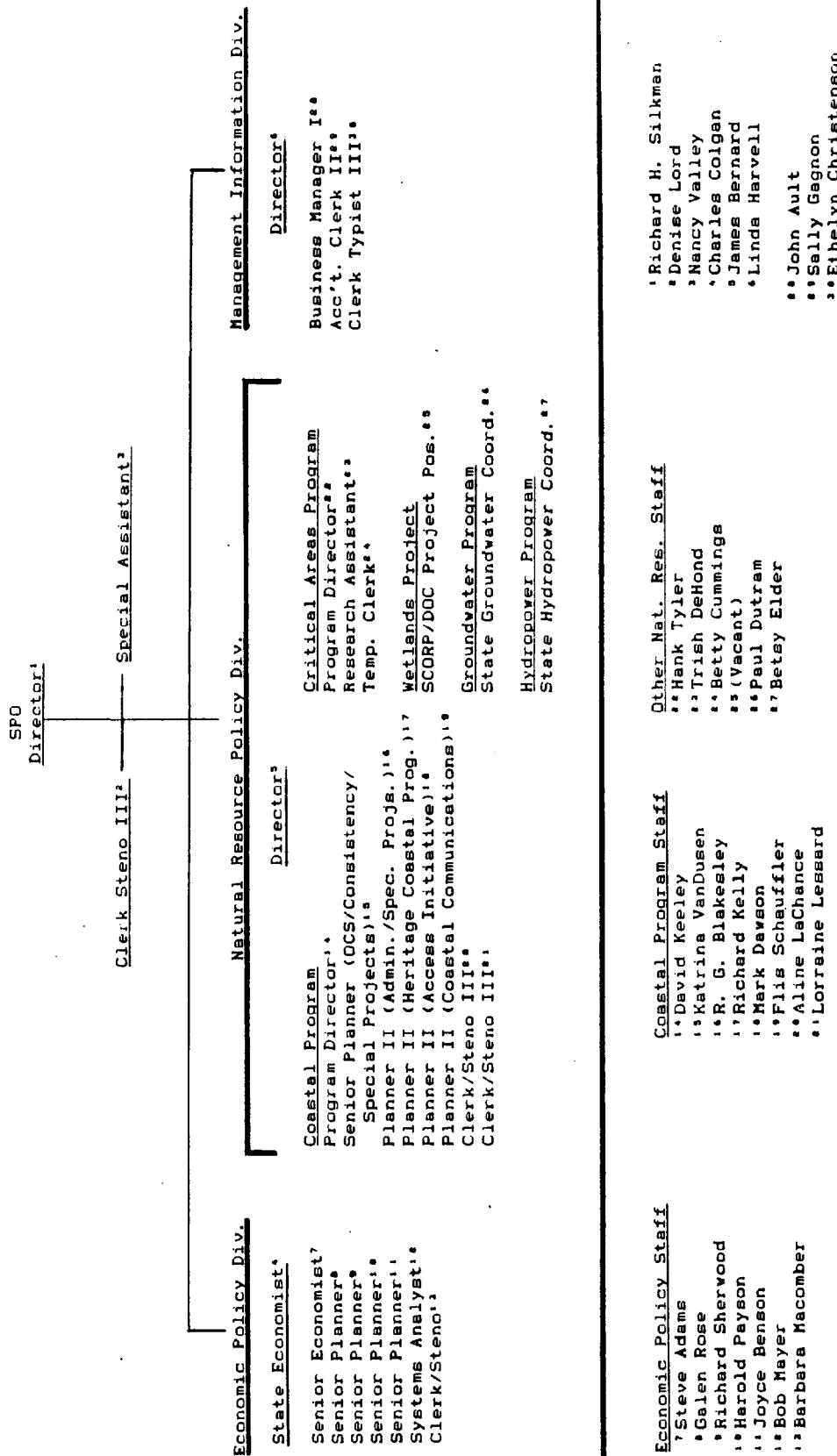
Now Sen. George J. Mitchell is proposing that about \$15 million in federal money be set aside over three years for the restoration of historic lighthouses.

That money would be available on a 50-50 matching basis to states, local governments, and private preservation groups, generating up to \$30 million for lighthouse repair. It





## STATE PLANNING OFFICE ORGANIZATION CHART



-2-

TO: Coastal Staff and Others

FROM: David Keeley

DATE: August 11, 1987

RE: Results of the 1987 Legislative Session

The legislature accomplished a variety of items during the first session of the 113th. Bob has pulled together a summary of the bills that affect the coast. The more significant of which include:

LD 128 (PL 94) - AN ACT Clarifying Municipal Home Rule Authority as it Relates to Shoreland Areas

Amends 38 MRSA 435 to clarify that municipalities have the authority under home rule to regulate structures built on, over or abutting a dock, wharf, pier or other structure extending beyond the normal high water mark in their Shoreland Zoning Ordinances, even though such ordinances normally apply only landward of the high water mark.

LD 167 (PL 274) - AN ACT to Expedite the Processing of Environmental Permits

38 MRSA 344 expedites the processing of environmental laws by delegating authority to act on specified categories of applications to the Commissioner and staff. LD 167 expands that authority (1) under the Site Location of Development Law to include structures at an existing industrial or commercial facility which do not increase the square footage of the total ground area of the facility by more than 50%, and (2) under the Protection & Improvement of Air Law to include incinerators or boilers with capacities up to 250,000,000 BTU's per hour (formerly 150,000,000) or which do not result in a net increase in emissions at any industrial or commercial facility.

LD 531 (P&S Law 54) - AN ACT to Authorize a General Fund Bond Issue in the Amount of \$6,300,000 for Sewage Treatment Plant Facilities

This law puts the following question to the voters in November: "Shall a bond issue be authorized in the amount of \$6,300,000 for construction of sewage treatment facilities in communities throughout the State?"

LD 626 (PL 60) - Resolve, to Establish a New Commission on Maine's Future

This Resolve establishes a 40-member Commission on Maine's Future, including the Director of the SPO, and with the remaining members balanced according to population and geographic criteria, to be staffed by the SPO. A progress report is to be submitted to the Governor and the Joint Standing Committee on State and Local Government by April 1, 1988; the final report and implementing legislation are due January 1, 1989. The Commission is to prepare a proposed growth and development policy for the State and step-by-step recommendations for implementing it, backed by analyses and projections of demographic factors, natural resources, etc. The Commission is authorized "to accept and employ any funding available."

LD 836 (PL 491) - AN ACT to Provide Comprehensive Protection for Ground Water

This law: (1) Provides redress for those whose water supplies are contaminated by municipal highway activities such as road salting, which is similar to that already available in the case of damage from state highway activities; (2) Revises the common law doctrine allowing any landowners unaffected withdrawal of ground water by providing preexisting residential landowners (and those providing water for residential landowners) with redress against new ground water users who dry up preexisting domestic wells with withdrawals in excess of needs for household purposes; (3) Tightens the regulation of underground oil storage tanks and provides for cleanup of discharges to ground water and payment of damages; (4) Establishes fees for hazardous waste generators, transporters and operators of treatment and disposal facilities; (5) Authorizes a special study of environmental and public health threats from above-ground storage of petroleum products and other hazardous materials, and allocates \$51,000 for 1987-88 and again for 1988-89 from the Coastal & Inland Surface Oil Clean-up Fund; (6) Authorizes the DEP to submit a program to the Legislature by January 1, 1989 to assist persons who generate up to 1,000 kilograms of hazardous waste in a month to minimize such generation and develop economical methods for collecting, transporting and disposing of it, and allocates \$51,000 for 1987-88 and again for 1988-89 from the Hazardous Waste Fund for the purpose; and (7) Authorizes carry-over of funds from 1985-86 to the DEP Water Bureau for a technical assistance program to municipalities for assessing development impacts on local ground water resources.

LD 1027 (PAS 73) - AN ACT to Authorize a General Fund Bond Issue in the Amount of \$35,000,000 to Finance the Acquisition of Land for Conservation, Outdoor Recreation and Wildlife

This law puts the following question before the voters in November: "Shall a bond issue for the purchase of public land access for Maine's people in the amount of \$35,000,000, to be issued over a period of 4 years be approved?" Acquisitions are to be sites with outstanding recreational, scenic, natural or wildlife values. Proceeds of the bond issue go to the Land for Maine's Future Fund, established by LD 1241 (PL 506), for allocation to State agencies and cooperating entities (private nonprofit organizations, municipal conservation commissions, local governments, federal agencies or other bodies designated by the Land for Maine's Future Board). (Proceeds are to be allocated by the Director of the SPO pending creation of the Board).

LD 1117 (PL 531) - AN ACT to Provide Funds to Map Significant Aquifers

Section 1 of this law prohibits transportation of water in significant quantities beyond the boundaries of the municipality in which it is located or any bordering municipalities, except by a water utility or on a finding by the Commissioner of Human Services that such transport will not constitute a threat to public health, safety or welfare, and that failure to authorize transport would create a substantial hardship to the potential recipient.

Section 2 appropriates \$30,000 for 1987-88 to the Maine Geological Survey to finish its sand and gravel aquifer mapping program, focusing in the Bangor, Millinocket, Lincoln and Houlton areas. (The original bill would have provided \$50,000 for 1987-88 and \$30,000 for 1988-89.)

LD 1228 (PL 180) - AN ACT to Clarify and Amend the Treatment of Overboard Effluent Discharges into the Waters of the State

This law prohibits new overboard discharges (discharges of domestic pollutants not conveyed to and treated in municipal or quasi-municipal sewage treatment facilities) into inland and coastal surface waters of the State, in recognition of the harm they cause to shellfishing, aquaculture and contact recreation uses. The law also shortens the term of existing licenses and establishes stricter standards for their reissuance.

LD 1307 (PAS 68) - AN ACT Establishing the Maine Commission on Outdoor Recreation

This law establishes a commission to examine the present outdoor recreation needs of the public and to determine whether current public policies properly address that need. A preliminary report is required by December 15, 1987, and a final report with implementing legislation by January 15, 1988. The 21 members are variously appointed by the Speaker of the House, President of the Senate and the Governor. The commissioners of Conservation and IFAW are ex officio members.

LD 1241 (PL 506) - AN ACT to Establish the Land for Maine's Future Fund

This law establishes a dedicated fund to be managed by a 9-member board, including 4 private citizens, the commissioners of Conservation, IFAW, Transportation, Agriculture, and the Director of the SPO. The board is authorized to distribute funds to state agencies and cooperating entities (private nonprofit organizations, municipal conservation commission, local government, federal agencies or other bodies designated by the Land for Maine's Future Board) for acquisition of lands of state significance from the standpoint of recreation and/or natural values. The board is directed to complete an assessment of the State's public land acquisition needs, and a strategy and guidelines for allocating fund proceeds, and to report to the Legislature, a joint standing committee by September 1988. The SPO and other state agencies are to provide staff support and assistance. (See LD 1027 re a General Fund Bond issue for the fund.)

LD 1356 (PAS 70) - AN ACT to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills

To put the following question before the voters in November:  
"Do you favor a \$8,000,000 bond issue for cleaning up and closing solid waste landfills that pose a hazard to public health and to ground water quality?" Funds are to be expended by the DEP for site evaluation and planning and municipal implementation grants.

LD 1456 (PAS 67) - AN ACT to Appropriate Funds for the Critical Areas Program

Mandates a study by the Critical Areas Advisory Board to evaluate whether current staffing and funding levels are adequate to accomplish the program's mandate.

LD 1761 (PL 261) - AN ACT to Protect the State's Freshwater Great Ponds and Rivers

Requires that a person selling property with a subsurface disposal system in the shoreland zone certify to the purchaser that the system is working and is consistent with the Maine State Plumbing Code, is actually hooked up to a public sewer or that there is room on the property for a replacement system sufficient to handle the existing waste load.

LD 1764 (PL 514) - AN ACT to Enhance Local Control of Community Growth and Strengthen Maine's Land Use Laws

This law eliminates a means by which subdividers of waterfront land have circumvented subdivision review requirements for small lots by creating long narrow lots of 40 acres or more in size. The definition of "subdivision" in the Subdivision Law and in the LUC Law is amended to include creation of waterfront lots with a depth to shore frontage ratio greater than 5:1.

This law also creates a 9-member Maine Commission of Land Conservation and Economic Development, drawn from the Legislature's Joint Standing Committee on Energy and Natural Resources and Transition. The Commission is charged with reviewing recent growth management studies; studying the relationship between quality of life in Maine, economic development, rapid growth in land use pressures, the well-being of the environment; holding hearings in all regions of the State; and reporting to the Legislature by February 15, 1988. Staff assistance is to be provided by the SPO, SDO and DEP, upon request.

LD 1794 (PL 412) - AN ACT Dealing with the Authority of Harbor Masters

This law is the outgrowth of a study by the Bureau of Public Lands and the work of the Joint Committee on State and Local Government. LD 316 which continues the authority of municipalities to regulate their harbors, (which had been called into question by a 1986 Superior Court ruling) expired April 1, 1986. This new law takes effect on that same date, giving municipalities time to prepare for the changes it makes.

The law extends the authority of harbor masters to assign mooring privileges to coastal and tidal waters outside the harbor but within the jurisdiction of the municipality. It limits frontage mooring rights to one mooring per 100 feet of shoreline and per parcel, defined as the larger of the minimal buildable lot size in the municipality or 20,000 square feet. It requires municipalities to assign 10% of its mooring spaces to nonresidents with boats used for noncommercial purposes, and 10% to nonresidents with commercial boats. It also deals with mooring and other fees, abandonment of watercraft, liability of harbormasters, and other matters.

LD 1808 (PL 534) - AN ACT to Create the Department of Economic and Community Development, to Establish Consistency among Economic Development Laws and to Establish a Capital Budgeting and Planning Process

This law reorganizes state agencies into a new department to encourage economic and community development policies and programs, to coordinate these programs and policies within the context of a state economic development strategy, and to work with municipalities and regional planning and economic development organizations to build strong local and regional economies and to implement programs and services through these local and regional organizations.

The new department is to contain the following:

- (1) Office of Business Development
- (2) Office of Community Development
- (3) Office of Tourism
- (4) Division of Development Policy

Community development programs under the Office of Community Development include the Community Development Block Grant Program, a local grants program of coastal zone management, a regional planning grants program, technical assistance and resources for municipalities for local parks and recreation development, and technical assistance to municipalities and regional community and economic development organizations for the purpose of developing local plans and regulations in compliance with state mandates for land use planning and development and encouraging economic growth while maintaining the quality of life.

The law also mandates that the Commissioner of Finance, the Commissioner of Economic and Community Development and the Director of the SPO report to the Legislature by February 1, 1988 on the need for and the most effective method of implementing a formal capital budgeting and planning process, with accompanying legislation; all on the ~~best~~ cost-effective method of implementing a program to collect and analyze social and economic data related to poverty in the state, with accompanying legislation.

LD 1840 (PL 453) - AN ACT to Amend the Aquaculture Leasing Statutes

This law updates the laws for leasing submerged lands for aquaculture. It reduces the total acres a person or corporation may lease to 150 acres from 200 acres and sets a maximum of 100 acres for a single lease. Leasing continues to be administered by the Department of Marine Resources, but require certification from the DEP that water quality standards will not be violated (see also LD 1751). The law requires that the municipality in which the proposed lease is located be provided with a copy of the applicant's completed application and notice of hearing, and granted intervenor status on written request.

- (f) Lake Environmental Protection Fund - Establishes a DEP fund to assist municipalities with legal expenses connected with regulation of land use adjacent to great ponds. The State is to provide on a first-come first-serve basis reimbursement for court costs, attorney fees and expert and other witness fees, up to \$25,000 for one municipality in one year. The municipality must pay a 25% local share of the cost.
- (g) Commission to Study the Impact of Game and Nongame Species on Maine's Economy - This is an 11 member commission of legislators. With staffing by the Legislative Council, charged with reporting to the Legislature by February 15, 1988. IFAA and DMR are authorized to enter into contractual agreements to study the economic contribution of marine and freshwater recreation fishing an wildlife hunting to the Maine economy, including analysis of the economic, recreational and ecological potential of the State's marine and wildlife resources. They are directed to use 25% State General Fund support to obtain 75% federal cost sharing, to report at least monthly to the Commission, and to submit a final report by December 1, 1987.
- Bob has done a thorough job and has information on other related bills should you be interested.
- dk/at&t/1866/3
- LD 1867 (PL 349) - AN ACT to Make a Supplemental Appropriation
- (a) Job Opportunity zones - Allocates \$ 250,000 for '87-88 and \$ 350,000 for '88-89 to create these zones, in addition to a \$ 2 M per year general allocation to SHO.
- (b) State HydroPower Relicensing Coordinator, SPO - Provides for 1 position, (\$ 27,206 for '87-88 and \$29,651 for '88-89) Plus \$32,575 and \$32,750 for the two years for all other costs.
- (c) Regional Councils - Provides \$100,000 for each year for '87-88 and '88-89. A 25% match is required.
- (d) Commission on Maine's Future - Provides \$25,530 to the SPO in '87-88 and \$27,730 in '88-89 for a Planner II to serve the Commission, Plus \$1,000 per year for other costs. (see LD 626)
- (e) Statewide Surveys of Significant Natural Areas - Provides \$23,887 to the SPO in '87-88 and \$25,080 in '88-89 for one position, and \$26,113 and \$24,920 for contractual work for surveys of significant geological, botanical, ecological and scenic areas worthy of preservation.



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November 19, 1987

TO: Members, Commission on Land Conservation & Economic Development  
FROM: Tim Glidden, Legislative Analyst  
SUBJECT: Summary of Proposals

A total of nineteen proposals have been submitted to the Commission for consideration at the Tuesday, November 24th meeting. While these proposals range from a single page to over 40 pages, each represents a thoughtful contribution to the Commission's efforts. The quality of effort represented within is high. The purpose of this memo is to provide an overview and summary of the proposals in order to facilitate your task of digesting and discussing all this information.

The following groups and individuals have submitted proposals and are referred to herein by the indicated abbreviations.

Arti Autio, Friendship (AA)	1
Paul Birdall, Blue Hill (PB)	3
Crispin Conner, Selectman Woodrich (CC)	7
Damariscotta Lake Association (DLA)	15
Ann Doyle, Quincy MA (AD)	21
Freeport Conservation Trust (FCT)	23
Freeport Land Bank Commission (FLBC)	25
John Nelson, Councilor Freeport (JN)	27
Stephen Honey, Public Policy & Management Program USM (SPH)	33
Peter Lowell, Lakes Environmental Association (LEA)	37
Maine Association of Planners (MAP)	55
Maine Association of Regional Commissions (MARC)	57
Maine Audubon Society (MAS)	65
Maine Municipal Association (MMA)	71
Maine Real Estate Developers Association (MREDA)	79
Natural Resources Council of Maine (NRCM)	119
O.R. Sigurdsson, Canton (OTS)	166
Southern Maine Regional Planning Commission (SMRPC)	168
State Planning Office (w- Dept. of Economic and Community Development and Dept. of Environmental Protection) (SPO)	172

Six of the proposals are quite comprehensive touching on virtually every aspect of the growth management issues before the Commission (MRS, MPA, MREDA, NRCM, SMRPC, SPO). The remainder of the proposals contain important, but more limited proposals addressing specific issues of immediate concern to those parties. I have organized this memo into general themes that encompass those issues which appear to be central to the Commission's task and the commentators' concerns. The summaries of this issues are not intended to be exhaustive and do not contain reference to specific recommendations included in the 185 pages of testimony. It is well worth your while to review each proposal.

The need for planning. The most important theme throughout all proposals is the almost desperate need for planning at the state and local level. Virtually every commentator points out that while some towns have made great strides in planning their futures, the majority of towns and state government continue to operate in a reactive, case-by-case mode. Most commentators agree that this status quo threatens to condemn the state to an accelerating decline of its quality of life, diminished opportunities for its citizens, and disruption of the integrity of its natural resources. Commentators make the case again and again that towns and the state will find it impossible to guide the course of acceptable growth and economic development without the foresight that is gained as part of the comprehensive planning process.

Because most of you have some familiarity with what local planning means in your own districts, it is important to point out that the planning advocated by the attached proposals is much more thorough and explicit than that commonly practiced in most Maine towns. Most commentators advocate the inclusion of specific, local capital investment plans to allow the evaluation of the financial impacts of development on local infrastructure. Most proposals also recommend explicit linkage between the comprehensive plan and the method of implementation, in most cases, the zoning ordinance.

Local control. A second important theme is that of local control. Every comprehensive proposal stresses the central importance of local control over the "front-line" planning and regulation of development. All of the major proposals, in one way or another, are constructed to support this function of local government. Substantial financial and technical assistance, enforcement training, expanded local authority are just some of the suggested avenues for a strengthened local role in growth management.

At the same time, there is a fundamental difference among these proposals in the manner this goal is to be accomplished. One group (MRS, MPA, MREDA) supports a comprehensive local Planning system that is measured against state standards and that is subject to state review and approval. This group suggests that municipalities adopt or update comprehensive

Plans and implementation programs in accordance with new state standards following a schedule that deals with the high-growth areas of the state first.

A second group (SMRPC, SPO) would encourage the adoption of comprehensive plans through the offer of financial incentives and through a linkage between the exercise of certain local regulatory authorities (such as impact fees and building permit limits) and the adoption of an acceptable comprehensive plan. SPO would also provide financial incentives to encourage the adoption of comprehensive plans. Several other proposals recommended that local assistance elements be tied to the existence of an acceptable comprehensive plan (SH and others).

A third position (MMA) supports all of the same assistance and enhanced authority recommendations embraced by the first two groups. However, MMA avoids the recommendation that towns be required to adopt comprehensive plans on any kind of schedule or that any new regulatory authority be tied to the existence of a comprehensive plan meeting state standards.

Critical State resources. A third theme common to most proposals is the need to retain a strong state role in the protection of specific, critical natural resources. While several proposals envision mechanisms for municipalities to assume regulatory control over development affecting these resources, every recommendation supports strong state oversight if not direct control of this type of regulation.

Enforcement. Virtually every commentator recommends a strengthening of enforcement of both state and local environmental and land use laws.

Need for overhaul of existing statutes. Many commentators have recommended a variety of changes to the existing land use and environmental laws in addition to those recommended to promote comprehensive planning. Most of these proposed amendments are cast as "fine-tuning" although some are quite comprehensive. These include changes in the various exemptions from local and state regulatory review, updates of the comprehensive planning, zoning and subdivision statutes, revision of the shoreland zoning law, and interpretation of the various natural resource laws (Great Pond, Wetland, Sand Dune, Stream Alteration, etc.).

These themes run throughout the proposals attached to this memo. There is a remarkable and encouraging degree of agreement on the key issues. Nonetheless, different groups have recommended a wide variety of different, specific ways of accomplishing these shared objectives. Therefore, it is very important to read each of the proposals in order to understand all of the options. Several of the longer Proposals (MREDA & NRCC) have included their own summaries which I encourage you to read if you are unable to get through all of their material.



## SHORELAND ZONING NEWS

September/October 1987

### Setbacks Protect Shoreline

Shorelines are known as the most productive component in any landscape, since they support directly or indirectly more different kinds of plants and animals than anywhere else. A setback, which is the distance between a structure or land use and the defined edge of a water body, protects this shoreline.

The State's minimum setback for most areas in residential districts is 75 feet, except those areas along certain outstanding river segments, where the setback is 105 feet. Rivers with outstanding river segments include Androscoggin River and its tributary Big Machias River, Dennis River, East Machias River, Hatchet River, Mattawamkeag River, including the tributaries, West Branch, East Branch, Fish Stream, and Bas Kehogen Stream; Harraseggus River, East Branch of Penobscot River, Pleasant River, Radish River, West Branch of Pleasant River and West Branch of Union River.

The setback in residential districts of the shore and zone is at least 75 feet. However, the Maine Department of Land and Fish and Wildlife has completed a scientific study that provides support for a 100-foot setback requirement. Some towns have adopted this more restrictive setback.

Whatever the setback, the same figure applies to both principal and accessory structures. Principal and accessory structures, include houses, satellite dishes, tent platforms, gazebos, bathhouses and anything else built for the support shelter or enclosure of persons, animals, goods or property of any kind except fences and structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls (which may still need a state permit).

### Where Have All the Minutes Gone?

by Richard P. Baker, Shoreland Zoning Coordinator

Does your town's planning board, board of appeals or code enforcement officer regard paperwork as an evil that should be avoided? Do they grant permits or variances verbally? If so, problems may arise when a challenge is made to a local permit decision or when it becomes necessary to enforce against a violator of the local zoning ordinance. I can not stress enough the need to keep detailed, accurate and up to date records of permitting activities, whether such activity involves the planning board, board of appeals, or

since roads meet the definition for structure, they must conform to the same setback requirement, unless the main purpose of the road is to provide water access. However, the standard for road construction in the State's model ordinance does not specify any type of setback. Nor does it provide specific guidelines for water access roads. Staff in the Shoreland Zoning unit will be updating the road construction standards in the model ordinance by the end of this year.

Commercial districts in the shoreland zone do not have a setback requirement. The rationale here is that these areas are so intensely developed that a setback is not warranted. On the other hand, since the resource protection district prohibits most development, the setback is essentially 250 feet which is usually the extent of the shoreland zone.

A town can adopt setbacks for their shoreland districts that are stricter than the State. Towns are encouraged to do so especially if they can document that more restrictive setbacks are necessary to effectively protect important town resources. If the town attempts to adopt a less restrictive setback requirement, then the state would be obligated to re-impose the State's minimum setback on that town.

Enforcement of the setback requirement is the responsibility of the local code enforcement officer. If someone violates the setback requirement, the Code Enforcement Officer should send that person a violation notice which requires the violator to tear down the structure or move it back, and may require payment of a fine to recover irreparable damages. The Code Enforcement Officer should also require the violator to apply for a permit after the fact.

*Continued on back page*

the code enforcement officer. If written records are not kept, it may be difficult to offset a legal challenge to a permitting or enforcement decision.

The first step in establishing a good record is to develop adequate application forms. All persons who propose to conduct activities requiring a permit should be required to submit a completed application form. Forms submitted without all

*Continued on back page*

## Dear Reader:

I recently had the privilege to meet an exceptionally good community leader in Thorndike - someone that gets out to do something and then gets it done. When I told this woman that I worked in shore and zoning, she told me about a dog that she bought for \$10,000. "You bought a dog for \$10,000?" I asked her astonished. "Well, we knew what we could do with it," was her reply. "We made it into the nicest lamb you ever saw." She admitted, however, that her "lamb" was reported to the State, and there was some trouble, though I didn't ask what the trouble was.

However, her point was that there are so many laws requiring a state specialist for each. How can a simple resident know what is and what is not allowed? That's the goal of this newsletter - to provide information that will help town officials administer and enforce their local shore and zoning ordinance. We hope to explain in simple language how other laws interact, how you can educate residents on the importance of shoreland zoning. When a change in the law or guidelines occurs, we will let you know. And when the need for a clarification in language becomes apparent, we will include such information as well.

If you have any comments on this newsletter, please feel free to forward them to the Shoreline and Zoning Coordinator, Department of Environmental Protection, Bureau of Land Quality Control, State House Station 11, Augusta, Maine 04333.

We are also enclosing a copy of the present State model shore and zoning ordinance for your information. Another version of the model will be coming out next summer that will revamp the land use standards, as well as create new standards, and will reflect changes to the Act that have occurred since 1979.

Sincerely,

**Andrea M. Lapointe**  
Editor

## Changes to Model Ordinance Since Its Adoption

Since its adoption in 1974, the State Model Shoreline and Zoning Ordinance was revised in 1979 and 1987. These revisions affected almost immediately those towns on the state-imposed list, which currently number 123, and 445 unincorporated municipalities. However, towns with their own local ordinance may not have incorporated these changes, which primarily serve to strengthen a town's control over development, resulting in better protection of important town resources.

Towns may not have incorporated the changes, simply because they were not made aware of their existence. Regardless of the reason, any town that has not included the revisions should do so to avoid state-imposed sanctions. All of the revisions are summarized below:

### Section: Effective Date

Revision: The former wording:

A certified copy of this Ordinance shall be filed with the County Registry of Deeds, according to the requirements of State law.

was changed to the following new wording:

A certified copy of this Ordinance shall be filed with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public at reasonable cost, at the expense of the person making the request. Notice of availability of the ordinance shall be posted.

Explanation: The County Registry of Deeds is no longer the central depository of shoreland zoning ordinances and maps. The new wording helps insure the accessibility of shoreland zoning regulations to the public.

### Section: Amendments

Revision: The former wording:

This Ordinance may be amended by a majority vote of the governing body. The State Planning Office shall be notified by Certified Mail of amendments to this Ordinance, prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.

The following handbooks are strongly recommended for detailed information relating to the duties of planning boards, board of appeals and code enforcement officers.

- 1. Handbook for Local Planning Boards: A Legal Perspective, published by the Maine Municipal Association for Local Code Enforcement Officers, published by the Maine Municipal Association.
- 2. A Handbook for Municipal Boards of Appeals, published by the Maine State Planning Office.
- 3. A Handbook for Municipal Boards of Appeals, published by the Maine State Planning Office.

was changed to the following:

### Section: Effective Date

This ordinance may be amended by a majority vote of the legislative body. The Department of Environmental Protection shall be notified by the municipal clerk of amendments to this ordinance within 30 days after the effective date of such amendments.

Explanation: As formerly written, this Section did not require notification of whether proposed changes are enacted or not.

### Section: Non-conforming uses

Revision: The sentence:

No such non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of 12 calendar months or more, without a permit from the Planning Board in accordance with the provisions of section 12-B, subsection 6, paragraphs A-1 of this Ordinance. It is reconstructed to place the phrase, "renewed after it has been discontinued for a period of 12 calendar months or more" before the verb, "expanded," and to include the word, "replaced," after the phrase, "change to another non-conforming use." The sentence, "structure which is less than the required setback from the normal high watermark was replaced toward the water," was also included under this section.

Explanation: The former sentence structure was unclear as to whether the prepositional phrase, after it has been discontinued for a period of 12 calendar months or more, also described the verbs, "expanded" and "replaced." The sentence, "structure which is less than the required setback from the normal high watermark was replaced toward the water," was also included under this section.

### Section: Standard for Erosion and Sedimentation Control

Revision: The sentence:

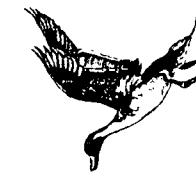
To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook F-1 on a and Sediment Control, published by the Maine Soil and Water Conservation Commission,

was replaced with the following:

On slopes greater than 25°, there shall be no grading or filling within 100 feet of the normal high watermark except to protect erosion.

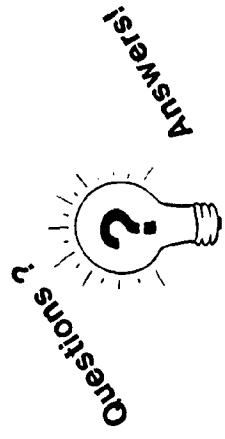
Explanation: This change eliminates reference to the environmental quality handbook, which has proven to be unknown to the and not relevant to most shoreland zoning projects. It would also prohibit grading and filling near water bodies on those slopes most likely to result in erosion and sedimentation.

**Continued on page 5**



Areas having sustained slopes greater than 25°, unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two acres or more in size.

## New District Preserves Working Pier



A 1985 amendment to the mandatory Shoreland Zoning Act established a new maritime district in the shoreland zone, called the commercial fishing and maritime activity district, to combat the decline of non-maritime development that threatens working piers along the Maine coast. Working piers are threatened, because non-maritime development tends to drive up land values, limit harbor access and usurp mooring rights.

Who cares some say? Let the free market operate without governmental interference. However, anyone that has spent their lunch hour near a working pier watching lobstermen come in with their catch or watching fishermen load their hull with ice, can help but appreciate the great loss if such activities are no longer part of the scene in a coastal village.

Sure, there would have to be some working piers somewhere to accommodate the obvious need for this type of land use. But when under pressure, their uses may be limited to a few areas, which are not visible to the casual observer.

As a result of the new maritime district, the State model ordinance will be revised to include a new column in the land use table with appropriate entries for each of the land uses listed. Land uses permitted will be limited to functionally water dependent uses, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment used commonly used on boats. Standards will be developed to guide these land uses in the maritime district.

The location of maritime districts will depend on the location of areas that currently serve as working piers, as well as areas that have a potential to become working piers, because they provide the key elements of success, such as proximity to distribution centers, accessibility to major transportation routes, topography, etc.

Anyone who would like to provide input on how these maritime districts should be developed and how the model ordinance should be revised to include them, is invited to send in their comments. There will also be an opportunity for public comment when the new model ordinance goes through the rulemaking procedure in Spring 1988. Once the new district is incorporated into the local ordinance, coastal towns may wish to revise their own process.

## Changes to Model Ordinance

(Continued from page 3)

### Residential Lot Standards

Section: Residential Lot Standards

Revision: The sentence:

If more than one residential dwelling unit is constructed on a single parcel, the minimum lot size requirement shall be met for each additional dwelling unit,

was replaced with the following:

If more than one residential dwelling unit is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit.

Explanation: This change increases the frontage requirement when two or more dwellings are constructed on a single parcel. Under the former wording, only the lot size had to be increased.

## Shoreland Zoning is a Local Regulation.

### State's Role is

### to Provide Technical Assistance.

#### Road Construction Standards

Section: Road Construction Standards

Revision: The sentence:

All roads shall be located, constructed and maintained in conformance with the erosion prevention provisions of Permanent Logging Roads for Better Woodlot Management, published by the Division of State and Private Forestry, Forest Service Northeastern Area, U.S. Department of Agriculture, in 1973 or subsequent revisions therefore, was deleted.

Explanation: Reference to the pamphlet was deleted, because it does not contain enforceable, numerical standards for constructing roads.

#### Sanitary Standards

Section: Maine State Plumbing Code was changed to the State of Maine Solid Waste Disposal Rules.

Explanation: This manual now has a new title.

Section: The following was deleted:

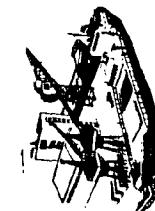
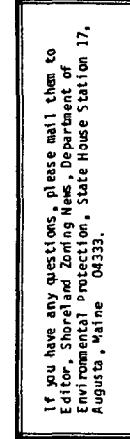
All subsurface sewage disposal systems shall be located in soils that have characteristics as soils allowing them to be rated as having "slight" or "moderate" limitations for the proposed use in the current "Statewide Set of Maine Soil Descriptions and Interpretations," published by the U.S. Department of Agriculture, Soil Conservation Service.

The determination of soil suitability shall be based on a soils report prepared by a State-certified soil scientist or geologist, based on an on-site investigation and soil observations to minimum depth of five feet. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

Privies may be permitted in areas not served by community sewer facilities under the following conditions:

- A. No plumbing of any kind shall be connected to or discharged into the privy pit.
- B. The privy shall be located at a minimum horizontal distance of 100 feet from the normal high watermark of a water body.
- C. The bottom of the privy pit shall be at least two feet above bedrock and the ground water table at its highest point during the year or have a watertight vault.
- D. Privies shall not be permitted on recent flood plain soils.

Other systems of sanitary waste disposal may be permitted after approval by the Maine Department of Health and Welfare, and after a permit has been issued by the Planning Board,



If you have any questions, please mail them to Editor, Shoreland Zoning News, Department of Environmental Protection, State House Station 17, Augusta, Maine 04333.

and the paragraph:

The minimum setback for underground sewage disposal facilities from the normal high water mark of a water body shall be not less than 100 horizontal feet. Where daily sewage flow exceeds 2,000 gallons, the minimum setback shall be 300 feet from any shoreline. All other setback requirements of the State Plumbing Code shall be met in full. Setbacks from shorelines for all subsurface sewage disposal facilities shall not be reduced by variance.

was replaced with the following:

The minimum setback for subsurface sewage disposal facilities shall be no less than 100 horizontal feet from the normal high water mark of a waterbody. This requirement shall not be reduced by variance.

Revision: The sentence:

All principal structures in the Resource Protection and Limited Residential-Recreational Districts shall be set back at least 75 feet from the normal high water mark of any pond, river, or salt water body as defined,

was changed to the following:

All principal and accessory structures which are permitted in the Resource Protection and Limited Residential-Recreational District shall be set back at least 75 feet from the normal high watermark of any pond, river or salt water body as defined. This provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls.

The following table is a sample accounting system for the Shoreland Zoning Ordinance of each Spring.

SHORELAND ZONING TALLY SHEET

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOT
Number of Permits Issued	1	1	1	1	1	1	1	1	1	10
Number of Permits Denied	1	1	1	1	1	1	1	1	1	10
Number of Variances Granted	1	1	1	1	1	1	1	1	1	10
Number of Variances Denied	1	1	1	1	1	1	1	1	1	10
Number of Revised Permits Issued	1	1	1	1	1	1	1	1	1	10
Number of Revised Permits Denied	1	1	1	1	1	1	1	1	1	10
Number of Actions Taken	1	1	1	1	1	1	1	1	1	10
Number of Violations Investigated	1	1	1	1	1	1	1	1	1	10
Number of Violations Confirmed	1	1	1	1	1	1	1	1	1	10

## The Shoreland is a Community of Living Things



Explanation: The wording of the Guideline was inconsistent with the Disposal Rules, which were strengthened considerably since the Guidelines were originally adopted. However, a retention of the provisions for minimum lot size and minimum setback will help insure that new systems will not result in water pollution.

### Section: Standards for Structures

Revision: The phrase, "including basements," was inserted after the word, "structures" in the sentence:

The first floor elevation or openings of all buildings or structures shall be elevated at least two feet above the elevation of the 100 year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identifiable as recent flood plain soils,

and the word "two" was replaced with the word "one" in that sentence.

Explanation: This change was made to reflect the exact wording in the Mandatory Shoreland Zoning Act.

Explanation: This change requires that both principal and accessory structures in the Resource Protection and Limited Residential-Recreational district be set back 75 feet from the normal high watermark. This change also clarifies that the 75-foot setback requirement pertains only to structures permitted in the Resource Protection District, while all other structures are prohibited. Under the former wording, some individuals had mistakenly interpreted the reference to "principal structure" to mean that residential dwelling units were permitted in the Resource Protection District.

Explanation: This change replaces the word "one" in that sentence.

Explanation: This change was made to reflect the exact wording in the Mandatory Shoreland Zoning Act.

Explanation: This change was made to reflect the exact wording in the Mandatory Shoreland Zoning Act.

RETURN TO:

Shoreland Zoning Coordinator  
Department of Environmental Protection  
State House Station 17  
Augusta, Maine 04333

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Town: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip Code: \_\_\_\_\_

Continued on page 8

## Shoreland Zoning News SUBSCRIPTION FORM

## NEWS BRIEFS

**Shoreland Zoning Enhances Property Values by Protecting Important Local Resources**



In 1985 the State Legislature amended the definition of "structure" in the mandatory Shoreland and Zoning Act. A structure is now defined as "anything built for the support, shelter or enclosure of persons, animals, goods or any kind, exclusive of fences." Anything that fits this definition of a structure must meet any setback requirements, except structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls. Examples of structures are satellite dishes, decks and boat houses.

All permits shall either be approved or denied in writing within 30 days of receiving a completed application, including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance.

Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this Ordinance. If a permit is denied for the reasons for the denial shall be stated in writing. An appeal to the board of appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

**Explanation:** This change spells out more clearly the procedures to be followed in processing permit applications.

**Section:**

**Revision:**

The phrase, "or reappointed annually by July 1st," was inserted after the word "appointed" in the sentence, "A Code Enforcement Officer shall be appointed by the Municipal Officers."

**Explanation:** This insertion reflects a change in the mandatory Shoreland Zoning Act that mandates the reappointment of a Code Enforcement Officer by July 1st when a vacancy occurs.

**Section:**

**Revision:**

The reference, "A Handbook for Municipal Board of Appeals, 1982, Maine State Planning Office, 141 pp." was inserted after the sentence, "There is hereby created the Board of Appeals for the Municipality of [name] pursuant to the provisions of State laws."

**Explanation:** Reference to the handbook provides a source to seek further guidance on the creation and responsibilities of a board of appeals.

**Section:**

**Revision:**

The following paragraph:

Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. All permits shall either be approved or denied within 60 days of receipt of a completed application, including all information requested,

**Continued on page 10**

## LOCAL AUTHORITY STRENGTHENED

A 1985 amendment to the mandatory Shoreland Zoning Act has enabled towns to regulate, not just structures on land within 250 feet of the shore, but also structures built on, over or abutting piers, docks and wharves extending into the water.

Those town officials already aware of the amendment have included the above language under the Applicability Section of their local shore and zoning ordinance. However, towns also need to develop standards that guide this type of land use and to include this type of land use in their land use table as a new item with appropriate entries under their district column headings. For those districts in the Shoreland Zone, Entity choices include yes, "no," "CEO permit" or "PB permit."

The best way to develop standards is to brainstorm as a group with input from specialists that understand the impacts such structures may have on the shoreline. The group needs to identify all of the elements and to decide what limits should be set for them. For example, what colors of the structure would negatively impact aesthetics along the shoreline? Should such structures only be allowed in areas where access will not be blocked? Should such structures provide for handicapped access? In addition to aesthetics and access, other elements to consider include size, height, and construction materials.

The Department of Environmental Protection will be developing standards on their own by the end of 1987.

## LEGAL LOOPOLES CLOSED

Send only those amendments that pertain directly or indirectly to the shoreland zone. Proposed amendments that apply to town-wide districts outside the shoreland zone should be sent to your town lawyer, State Planning Office or Municipal Association.

Allow the Shoreland Zoning Coordinator at least two weeks to review proposed amendments - not the two weeks before town meeting, but the two weeks before the amendment must be finalized for printing for town meeting. Indicate the deadline for comments at the top of your proposed amendment and also indicate that the amendment is proposed, as follows:

**DEADLINE FOR COMMENTS:**  
**PROPOSED AMENDMENT**

Once the amendment is adopted, an attested copy must be mailed to the Shoreland Zoning Coordinator within 30 days of its effective date, as required by law.

## Changes to Model Ordinance

(Continued from Page 8)



Explanation: The change requires that the planning board issue a permit if it finds that the applicant meets all of the requirements of the ordinance.

Section:

Conditions

Revision:

The sentence: Permits granted under this section may be made subject to reasonable conditions to ensure conformity with the purposes and provisions of this ordinance.

Explanation: This section, which allowed the planning board to attach conditions to permits, is no longer needed, since this would be covered by the change in the section on the procedure of administering permits, as described above.

Section:

Definitions

Revision:

Permits granted under this section may be made subject to reasonable conditions to ensure conformity with the purposes and provisions of this ordinance.

Explanation: This change clarifies the fact that this paragraph applies only to administrative appeals, and not variance appeals.

Section:

Fines

Revision:

The paragraph: Any person who continues to violate any provision of this ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

Section:

Appeals to Board of Appeals

Revision:

The name, "State Planning Office," was replaced with the name, "Department of Environmental Protection."

Explanation: Again, the Department of Environmental Protection now has overall responsibility for the Mandatory Shoreland Zoning Act.

Section:

Appeals to Board of Appeals

Revision:

The former heading for this section was changed from "Appeals and Variances" to "Appeals to Board of Appeals".

Section:

Variance

Revision:

This change makes it clear that variance appeals and administrative appeals both fall under the category of appeals to the Board of Appeals.

Section:

Variances

Revision:

The following was included: The term, "undue hardship," shall mean: that the land in question cannot yield a reasonable return unless a variance is granted; that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

Section:

Variances

Revision:

The following was included:

Section:

Variances

Revision:

The following was included:

Explanation: This change clarifies the fact that this paragraph applies only to administrative appeals, and not variance appeals.

Section:

Variances

Revision:

The paragraph: Any person who continues to violate any provision of this ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

Section:

Variances

Revision:

The guidelines were silent about whether these types of structures are permitted or not. This change eliminated the silence.

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Variances

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## Setbacks Protect Shoreline (Continued from front page)

Structures built before the passage of shoreland zoning that don't meet the normal setback requirement have a grandfathered setback. Their setback is defined as the closest distance from the structure to the normal high water mark.

Extensions of the structure cannot encroach any further on this setback without both a variance from the Board of Appeals and a permit from the Planning Board.

A structure can have only one setback, which may be defined by the front, rear or side of the structure. For example, if a cottage was constructed on a peninsula, and the nearest distance from the normal high water mark to the side of the cottage is 10 feet, while the nearest distance from the normal high water mark to the front of the cottage is 15 feet, then the cottage's setback is 10 feet. The owner of the cottage cannot encroach any further on the setback of 10 feet. Technically, the owner could expand from the front - unless a town has adopted specific provisions to the contrary - up to 10 feet from the normal high water mark, since the cottage is currently located 15 feet back on the front or, in other words, 5 feet from the established setback.

Setbacks can only be reduced by a variance from

1. that the land in question cannot yield a reasonable return unless a variance is granted;
2. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. that the granting of a variance will not alter the essential character of the locality; and
4. that the hardship is not the result of action taken by the applicant or prior owner.

An applicant can not get a variance for a setback that would result in allowing a use in a district that is otherwise prohibited. For example, a setback for a septic system that would place such system in a resource protection district is not allowed, since septic systems are not allowed in resource protection districts.

## Where Have All the Minutes Gone?

(Continued from front page)

necessary information including the applicant's signature, should be returned until completed. Only after the application is complete should it be accepted for the permit review process.

Although there are no standardized, mandated application forms, the Handbook for Local Planning Boards: A Legal Perspective contains sample forms that detail a good sample permit application. That handbook is published by the Little Finance Association. Requests and copies can be purchased from that organization. If you wish to obtain blank forms only, you may obtain them from this Department's Shoreland Zoning Unit.

Once an application is received and accepted and the decision making process begins, it is crucial that detailed and accurate minutes are recorded during planning board meetings. It is important, therefore, that planning boards elect a secretary whose job will include recording the minutes. Minutes should include when and where the meeting occurred, who was present, the subject of the application, what was said and by whom, what votes were taken, and any agreements made regarding procedures or other issues at a board meeting.

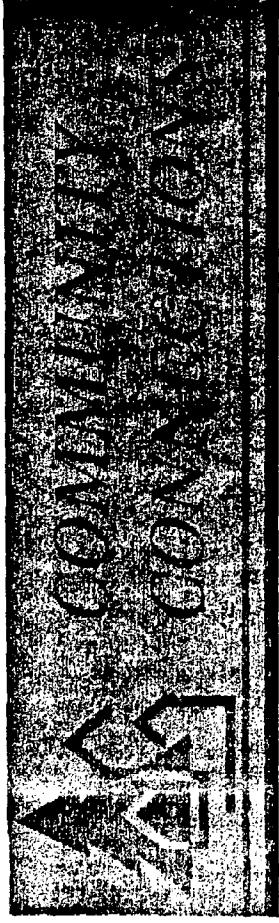
Once a completed application is accepted and properly reviewed and discussed, the process may move forward. If all information is available, a decision on the application may be rendered.

Accompanying a vote of the planning board to approve with conditions, or deny an application, there must be a notice of decision including findings of fact, conclusions and judgment. A

copy of the decision and the number of votes for and against the application should be incorporated into the minutes. The applicant should also receive a copy of the decision, as well as any completed document which accompanies the decision. A copy of all documents relating to that application should be placed in the town files for safe keeping.

Board of appeals, as well, must keep proper records. A decision of the board of appeals may be subject to a further legal challenge in the courts and should be backed up with minutes of meetings, records of hearing testimony (tape recorded hearings are preferable but should be supplemented with written minutes), a formal Notice of Decision, and any other formal documentation.

It is just as important that Code Enforcement Officers (CEO) keep adequate records of permitting and enforcement activities in which the CEO has taken action. The CEO's actions are no less important toward good administration of the shoreland zoning ordinance than those of the planning and appeals boards. Furthermore, the statute, Title 38, Section 441.3-C, now requires the CEO to keep a complete record of all essential transactions of that office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the DEP's Bureau of Land Quality Control.



vol. 1 no. 1 maine state planning office's newsletter for local municipal governments sept. 1987

IN THIS ISSUE...

LOCAL COMPREHENSIVE PLANNING  
A CRITICAL BEGINNING

LOCAL  
COMPREHENSIVE  
PLANNING  
*A discussion of the purpose  
and importance of local  
comprehensive planning.*

LEWISTON'S PLANNING  
PROCESS BUILDS  
COMMUNITY SUPPORT  
*An update on Lewiston's  
new comprehensive plan and  
zoning ordinance in response  
to significant growth in their  
residential and industrial  
sectors.*

COASTWEEK  
ACTIVITIES  
PLANNED FOR  
OCTOBER 3-12  
*Come join the celebration of  
Maine's beautiful coastal  
areas and assist in the upkeep  
of one of Maine's most  
precious resources.*

MAINE LEGISLATURE  
STUDIES GROWTH  
MANAGEMENT ISSUES  
*The 113th Legislature estab-  
lishes a 9 member study  
commission to study Maine's  
taxes laws.*

The current resurgence in comprehensive planning has been triggered by increased development pressure, changing land use patterns, and brisk sales in real estate by out-of-state investors. Land along Maine's 3,500 mile coastline, as well as desirable lake frontage, is now a national commodity eagerly sought for investment or development purposes. Commercial and industrial development is rapidly occurring in York and Cumberland counties. Downeast, Hancock County is experiencing the second highest growth rate in the state. Towns need not be overwhelmed by this pressure. Instead, the growth can be harnessed to accommodate and achieve local goals and visitors through sound planning and management. Comprehensive planning is the first step, a critical beginning, to ensuring quality growth for Maine towns.

Comprehensive planning forms the foundation for a town's regulatory and non-regulatory management system. Like any organization or institution, a town must inventory and assess local resources, set priorities for the future, and establish a strategy for achieving those goals. All aspects of community life — housing, population, land use, economic development, resource conservation, and public services — should be addressed in comprehensive plans. The plans articulate the community goals and policies that serve as a basis for decision making.

Legally, towns must have a comprehensive plan before enacting zoning ordinances. Underlying this requirement is the rationale that without sound and thorough planning, ordinances and other regulations will not be rationally related to their objectives. The comprehensive plan is the link between the goals of the community and the regulatory tools designed to achieve those goals. Without careful planning, land use and other ordinances will be ineffective in achieving desired goals.

All too often, comprehensive planning is in response to a crisis. Faced with large development proposals, Waldoboro, Cutler, and Durham recently joined the growing number of towns enacting moratoria. Although moratoria are useful for providing time to plan without the pressure of permit reviews, they are temporary measures at best. Comprehensive planning is a process, not a document designed to collect dust, and therefore must be flexible, responsive to change, and reflect the opinions of the community at large.

**Citizen Participation Is Key to Effective Planning**  
Active, broad-based, citizen participation is vital to the formation of an effective plan. Getting citizens to actively participate in discussions on community issues is perhaps the most difficult and rewarding challenge in designing a comprehensive plan. Without this involvement, the people drafting the plan's policies and recommendations

will be less inclined to be as specific as they should be, and town voters will be unlikely to approve the plan as the issues it addresses may not be well understood.

A variety of methods can ensure citizen involvement in the planning process. A special planning committee, comprised of members of the planning board and zoning board, selectmen or city council members, the conservation commission, representatives of professional and private interests, and motivated citizens, can play a vital role in forging a plan that reflects citizens' concerns. A special committee makes sense when the planning board is busy administering ordinances and lacks sufficient time to plan. The active participation and consensus required of such a committee ensures that all issues and differing viewpoints are aired before the public hearings or town meeting. Issues and recommendations will have already been discussed and debated, and where necessary, concessions made.

One of the most effective methods for gathering citizen input is a public opinion survey. Survey responses focus the work of the committee on those issues most important to town residents. Too often, the hard work and diligence of developing the plan fails because of confusion and suspicion about the details of the plan. Constant and frequent communication with the community at large at various stages throughout the process builds support and understanding of the plan. Encouraging citizen participation can be time-consuming, but is essential to developing an effective plan.

**The First Step - Data Collection**  
Once the concerns of the community have been identified and the direction and goals of the plan established, the work of developing the plan begins. The formal and

content of a plan varies as widely as the character and complexity of the 494 organized cities and towns in this State. There are, however, common steps to the formation of plans. First, background information and data needs to be gathered. At a minimum, policies can address a range of issues such as single family dwellings, open space, harbor management, public access, capital improvement planning, and others.

Recent court decisions, at both the state and federal level, have supported the need for specific and detailed plans. The more specific the plans are, the more resistant they will be to legal challenges.

Often a particular problem or issue will be identified in the course of developing a comprehensive plan but time limitations do not allow for specific recommendations. In these situations, the plan should recommend that the town undertake further study of the issue or take action in the future — for example: "The town should develop a capital improvements program." Such recommendations should be as detailed as possible concerning who should implement them, how they should be implemented, and the major concerns to be addressed. A recommendation might read: "The Selectmen shall explore options for improving public access to the waterfront and encouraging water-dependent uses, and present its recommendations to the selectmen and planning board by December 31, 1987."

**Regional Councils Provide Assistance**  
In the midst of the current development boom many towns are revising their comprehensive plans — a difficult and time consuming task. Regional councils are an excellent source of information. Besides having background information on local resources they can direct local officials to appropriate state and

residential appearance of the street" (adopted from the Camden's Comprehensive Plan, 1984). These policies provide clear direction for planning board members, developers, and others concerned with the future of the town. Policies can address a range of issues such as single family dwellings, open space, harbor management, public access, capital improvement planning, and others.

The goals and policies, which flow from the results of the public opinion survey and interpretation of the data, form the backbone of the plan. Goals are general statements concerning the future of the community; policies provide specific guidance for implementing these goals. Policies that are too general provide little direction and lead to confusion on intended implementation. For example, many towns adopt policies stating their desire to "grow slowly," "maintain rural character," and "protect important natural resources and open space." Such statements do not indicate what or how resources should be protected and provide a false sense of security when the town is faced with a specific proposal for development. Specific policies are:

"All development proposals that

would alter 10 acres or more of

agricultural land will be required to

cluster buildings to minimize the

impact;" or, "A new business zone

should be created. In this zone, office

and service-oriented business should be permitted. Exterior modification of

buildings must be approved by the Planning Board to preserve the

#### FROM THE DIRECTOR

This newsletter, our first, is devoted to comprehensive planning. The first step in the community planning and development process, and therefore, it only seems appropriate that our first newsletter in a bimonthly series should address this topic.

The newsletter is designed to achieve many of the same objectives of a comprehensive planning process. The first objective is the collection of all pertinent information. As part of the comprehensive planning process, local residents inventory and assess all elements of their community — the natural resources, aesthetics and amenities, housing, population characteristics and settlement patterns, public services, and the economic base. Likewise, we hope this newsletter will present local planning and management tools that can improve all elements of community life. Our focus will be on all aspects of local planning and development including economic strategies and marketing, land use management, resource conservation, and public facilities investments and service provision.

The newsletter is intended to be informational and educational. When appropriate, our feature article will be supported by citations of relevant legal actions, recommended reading lists, available resources, and the names of experts who are willing resources. In addition to feature articles, we will include newsbriefs on items of interest to local officials and a calendar of events listing upcoming conferences or educational opportunities, grant application deadlines, and important public hearings.

Another objective is the participation of a broad cross section of community interests. Like the comprehensive planning process, we hope the newsletter will be an open forum for ideas that enhance community life. We will try to present local and individual perspectives on featured topics. Each feature article will include supporting illustrations examples from local officials. It is our intention to share both the best information about a planning or development issue or technique and pertinent, successful Maine examples of their application.

And finally, as a comprehensive plan provides the guidance the goals that govern local decision making, we hope the newsletter will assist local officials both elected and appointed, to make better planning and development decisions.

As with comprehensive plans, the newsletter will be most effective with input and suggestions from all. We invite your comments and your contributions.

Denise Lord  
Director, Community Services Division

federal agencies. Moreover, they often have resource material on a range of planning issues. The State Planning Office also provides technical assistance.

From the plan, local governments can start building strategies for managing growth. Our experience confirms that no matter how much time, data, sophistication, or money a town or city dedicates to their comprehensive plan, the critical factor in determining how successful and useful that plan is in guiding local actions and growth is the extent and energy of citizen involvement in the process.

John DeVoechio

#### Recommended Resources

Maine Association of Conservation Commissions, A Natural Resource Inventory Handbook. August 1987. Available from the SPO and the MACC.

Peebles Valley Regional Planning Commission. Comprehensive Planning Guide for Local Planning Boards. 1976. (The SPO is currently updating this handbook).

#### Goals and Policies - The Heart of the Plan

The goals and policies, which flow from the results of the public opinion survey and interpretation of the data, form the backbone of the plan. Goals are general statements concerning the future of the community; policies provide specific guidance for implementing these goals. Policies that are too general provide little direction and lead to confusion on intended implementation. For example, many towns adopt policies stating their desire to "grow slowly," "maintain rural character," and "protect important natural resources and open space." Such statements do not indicate what or how resources should be protected and provide a false sense of security when the town is faced with a specific proposal for development. Specific policies are:

## LANDUSE

### LAWSON'S PLANNING PROCESS BUILDS COMMUNITY SUPPORT

Five months ago, the City of Lewiston initiated the development of a new comprehensive plan and zoning ordinance in response to significant growth in the residential and industrial sectors of the economy. Investments in housing doubled between 1984 and 1985 and again between 1986 and 1987. During that same period, the Lewiston-Auburn area ranked first in the state for the number of jobs created through industrial expansion. Moreover, Lewiston is expected to be the next area to be impacted by the growth and development now occurring in southern Maine. Anticipating the pressures and the effects that this growth will have on land resources, the City recognized the inadequacy of the existing comprehensive land use plan, developed in 1962, and the existing zoning ordinance, developed in 1972, to guide land use management from 1987 forward.

The challenge of the project is not unique that of other Maine communities experiencing or anticipating growth. Two factors prompted the planning effort: first, to anticipate economic growth opportunities and secondly, to recognize existing cultural and recreational resources. The challenge is to develop land use management mechanisms that encourage growth and promote the general quality of life.

To assist with developing the comprehensive plan and zoning ordinance, the City contracted Market Decisions, Inc., of South Portland in association with Sasaki Associates of Wauwatosa, MA.

Recognizing that the process of developing a comprehensive land use plan is as important as the final document itself, the City designed a multi-tiered public participation process. Emphasis was placed on bringing those most affected by land use controls and those who enforce them into the process. Ultimately, the success of the plan will be directly proportional to the extent to which the people of the community — the citizens, developers, business entrepreneurs and managers, educators, farmers, representatives of the major institutions and cultural entities — are involved in the process.

To achieve the goal of high public participation a four-step process was developed. First, the Mayor appointed a 28-member Citizens Advisory Board to set policies and oversee the 18-month process. The Board reviewed and analyzed data from business leaders, community leaders, and citizens concerning economic and demographic trends, environmental resources, and the infrastructural systems of the City. From this analysis the group developed 13 land use goals, along with a land use map with 18 land use districts. Second, a group of 100 business and community leaders met throughout the process to identify land use issues and offer input into the development of regulatory controls. The idea behind this group was to establish a forum where community and civic leaders, and residents could share concerns about future land use issues and controls. Three forums were held; the first meeting, in September at the initiation of the project, outlined specific land use issues facing the City. The second meeting, held in March, reviewed the land use goals established by the Citizens Advisory Board and offered direction and guidance for the zoning ordinance. The third meeting, held in

late June, reviewed the zoning map and ordinance.

The third step in the process was a survey of a representative sample of the citizens. Residents were asked to respond to 60 questions, many of which came from issues raised at the community leaders workshops. The questions were detailed, requiring time and thought to answer. For example, respondents were asked how to appropriate City money to address some of the issues. The response rate for the survey was approximately 33 percent.

The last step was a series of public meetings to present the draft ordinance and zoning map. Citizens were asked to respond specifically to "pencil" lines on the proposed zoning map as well as the proposed regulatory controls. This became one of the most important and critical elements of the project. An editorial in the local newspaper duly stated: "It is imperative that citizens not only respond to a theme proposed but play an active role in the formulation of these policies." These meetings provided citizens the opportunity to actively participate in the formulation of one of the City's most significant documents. Response to the meetings has been exceptional, providing the committee with critical and insightful comments.

At the end of the 18-month process the City will have a land use plan and zoning ordinance truly drafted by its citizens and capable of promoting a healthy, vital community which protects and enhances the quality of life. The plan will have received close scrutiny and input from educators, farmers, developers, residents, major institutions, lawyers, planning and zoning board members, and City Councilors and their constituents. The project has been arduous, requiring many difficult decisions. The response by the community to participate in this process has been overwhelming and has often provided

insight into specific neighborhoods where perhaps the professional planners may not have seen the forest for the trees.

In addition to the city monies appropriated to this project, area banks in cooperation with Bates College financed the workshop presentations. The City also benefited from the expertise of the Maine Development Foundation in developing a strategy to maximize input of all sectors of the economy.

Deborah J. Richard,  
Director of Community  
Development and Planning  
City of Lewiston

The City of Lewiston won recognition for their planning process at the annual meeting of the Maine Association of Planners, June 19, 1987. Congratulations!

### LEGISLATURE STUDIES GROWTH MANAGEMENT ISSUES

This spring the 113th Legislature enacted LD 1764, AN ACT to Enhance Local Control of Community Growth and Strengthen Maine's Land Use Laws". The bill established a 15-member study commission, The Maine Commission on Land Conservation and Economic Development, comprised of members of the Energy and Natural Resources and the Taxation committees. Members of the committee include Sen. Twitchell (Norway), Sen. Mayo (Thomaston), Rep. Cashman (Old Town), Rep. Michael (E. Millinocket), Rep. Mitchell (Freeport), Rep. Hogland (Portland), and Rep. Jackson (Harrison). The committee will be studying growth management in Maine and making recommendations to the Legislature on improving

ponds, rivers, and streams).

The Planning Board used information from the DEP's Water Quality Bureau to determine the level of development that would maintain the integrity of the lake water. The town also passed a large lot review ordinance which requires planning board permission for lots of 40 or more acres, a forest practices ordinance, and a hazardous waste ordinance.

The ordinance is a result of hard work and long hours by the Northfield Planning Board. Nick Green of Washington County Regional Planning Commission, who claims he had minimal involvement in the process, noted: "It is an example of what a planning board can do when it becomes committed. All the technical assistance in the world wouldn't have developed such an ordinance."

### COASTAL

MANAGING GROWTH: THE MAINE CHALLENGE

The SPO has produced a slide show on growth management. The twenty minute show, *Managing Growth: The Maine Challenge*, explores where growth is occurring, the effect of growth, and possible techniques for managing growth. Contact Katrina Van Dusen at 289-3261 or Josie Quintrell at 289-3154 for more information.

Maine's land use system. During early fall, the committee will hold a series of public meetings throughout the State to gather public input. This is an excellent opportunity to express your concerns about land use in Maine. The dates for the public meetings are: September 28, 9:00 a.m., Augusta; October 7, Alfred; October 13, Ellsworth. Call 289-1670 for more information.

Many coastal communities are seeing increased development pressures on waterfront property. New development is transforming Maine's waterfront from commercial waterfront activities, such as fish piers and boat yards, to non-water related uses, such as condominiums, shops, and restaurants. Strong sentiment stretches the length of the Maine coast to protect the ability of traditional maritime activities to locate on the waterfront.

The Legislature recognized this trend in coastal land use when it

## **AND SO ON**

### **CDBG**

### **DEVELOPMENT FUND GRANT AWARD ANNOUNCED**

MA, Norwalk, CT, and Portland, ME. The study will identify the most significant factors affecting the viability of traditional, water-dependent businesses and develop strategies that local governments can use to manage waterfront land. The study, including a handbook of legal tools, is expected to be completed by the end of October.

The SPO is undertaking a Mandatory Shoreland Zoning Act to give towns the authority to adopt commercial fisheries and maritime activity zones. The State Planning Office is now working to implement the provisions of the law.

**SPO Mapping Project**

### **COASTWEEK ACTIVITIES PLANNED FOR OCTOBER 3-12**

The SPO is undertaking a coastwide project mapping areas most suitable for water-dependent uses. Based on physical criteria—water depth, upland slope, and protection from wind and seas—the project will map prime water-dependent use sites. The maps will also depict existing water dependent use activity.

This summer, municipalities will be asked to review a draft map of their town to verify the accuracy of the physical criteria and existing use information. Final maps will incorporate local comments and will be distributed to each town. These maps will help towns identify areas in need of protection.

### **Waterfront Study**

Once prime waterfront sites have been identified, the next step is to design a protection strategy. The Marin Law Institute at the University of Southern Maine was recently awarded \$150,000 contract to research protection strategies from the New England/New York Coastal Zone Task Force. The New England study will examine waterfront development in Bristol, RI; Greenport, NY; Fall River,

### **INTERIM FINANCE PROGRAM UPDATE**

The Interim Financing Program (IFP) makes grants to eligible communities for short-term loans to businesses or developers. The IFP is a financial mechanism that utilizes undistributed Community Development Block Grant (CDBG) dollars. The amount of funds available for the Interim Financing Program is dependent on the minimum level of funds in the State's letter of credit at any one time. Historically, that minimum has never been below \$5 million.

The number of IFP grants is determined by the availability of funds loaned by a community to a business or developer may carry a term greater than 24 months. IFP grants are made on a first come, first serve basis. Currently, SPO is considering two applications. Any questions about this program may be addressed to Bob Williams, State Planning Office, 289-3154.

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### **MID-COAST AREA EXPLORES REGIONAL ORGANIZATION**

A Steering Committee of local and county officials has been formed to draft a proposal for a Council of Governments (COG) in the Southern Mid-Coast region. The area, encompassing 28 communities in Cumberland, Lincoln, and Sagadahoc counties and Monhegan Plantation, has been without a regional council since 1981. The purpose of the COG would be to provide a forum for municipalities and counties to work together on common issues and problems, and promote more efficient use of limited financial and technical resources.

A recent survey of local officials indicated strong need for technical assistance in revising local ordinances, enforcement procedures, and with comprehensive planning. Solid waste management also emerged as an important issue. In addition, the survey respondents expressed an interest in obtaining information and guidance on groundwater protection, cluster development, and exploring the feasibility of joint purchasing.

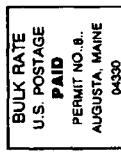
The Steering Committee, co-chaired by Crispin Connery of Woolwich and Arthur Dudley Hall of Bremen, has met during the summer months to identify the goals and objectives of the council and draft bylaws, including voting representation rules for member towns and counties. It is anticipated that a draft proposal will be distributed to area towns and counties for review and comment in the fall of 1987, and a formal proposal will be presented at Town Meetings in the spring of 1988. In addition, meetings with local officials and interested citizens will be held throughout the region during the coming months to discuss how a COG could address individual community needs.

**NATURAL RESOURCES INVENTORY HANDBOOK  
UPDATED**

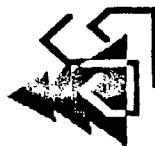
The Maine Association of Conservation Commissions (MACC), with a grant from the State Planning Office's Coastal Program, has updated the Natural Resources Inventory Handbook. The Handbook is a how-to guide for inventorying local natural resources and will be a valuable tool for planning boards, conservation commissions and others concerned about the future of their communities. The handbook will be published in early August. Five regional workshops will be held along the coast to introduce the material (see calendar for details). Contact Gwen Hilton of the MACC, 633-4850, your regional council, or the SPO for more information.

## CALENDAR

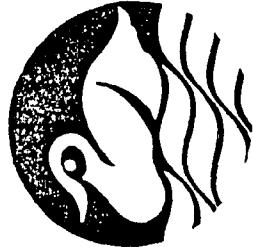
- Natural Resource Inventory Workshop Sponsored by the Maine Association of Conservation Commissions, Ellsworth City Hall, Church St., 7:00 p.m.-9:00 p.m.
- Natural Resource Inventory Workshop, Maine Association of Conservation Commissions, Machiasport Town Hall, Route 92, 7:00 p.m., 9:00 p.m.
- Natural Resource Inventory Workshop, Maine Association of Conservation Commissions, Wiscasset High School Cafeteria, Gardner Road, Rte. 27, 7:00 p.m.-9:00 p.m.
- Natural Resource Inventory Workshop, Maine Association of Conservation Commissions, Saco City Hall, 300 Main Street, 7:00 - 9:00 p.m.
- Affordable Housing Workshop, Canard/Rockport Development Committee. Call Pat Jennings: 544-2299 for more information.
- Maine Commission on Land Conservation and Economic Development. Public Hearing 9:00 a.m., Augusta. Call 289-1670.
- Natural Resource Inventory Workshop, Maine Association of Conservation Commissions, Rockport Elementary School Cafeteria, Near Rue 1 + 90, 7:00 p.m.-9:00 p.m.
- SPO's Community Assistance Division becomes the Office of Community Development in the new Department of Economic and Community Development.
- Coastal Access Forum, Bellows Free Library, 7:30 p.m.-9:30 p.m.
- Maine Commission on Land Conservation and Economic Development. Public Hearing, Alfred. Call 289-1670.
- Coastal Access Forum, Saco City Hall, 7:00 p.m.-9:00 p.m.
- COASTWEEK '87
- Maine Commission on Land Conservation and Economic Development. Public Hearing, Ellsworth. Call 289-1670.
- Growth Management Forum, Miller School, Waldoboro, 9:30 a.m.-1:30 p.m.



COMMUNITY  
CONNECTIONS  
State Planning Office  
State House Station #130  
Augusta, Maine 04333



# Wells National Estuarine Research Reserve



2.

## Bob-o-links and Willets

by Art Garland

Symbolic of the upland and lowland habitats at the Reserve are two birds currently breeding. In the upland meadows, now slowly being invaded by bushes and young trees, you will find the Bob-o-link. While at the other end of the Reserve in the salt marshes, the Willet has established a nesting ground. Just as the plant life of both of these areas are different and do not mix so it is with the birds seen.

You will start seeing the Bob-o-link as you walk from the new parking lot, past the Laughholm Farm barn, through the now overgrown pastures of the farm and head for the salt marsh further down the trail. The male is unmistakable - entirely black underparts and head with a distinct buff neck and white scapulars and rump. These latter field marks are most distinct when the bird is flying, creating a sort of flutting pattern as he flies across a meadow.

Once you have seen a male Bob-o-link you will never forget him because of that distinct almost complete reversal of the customary location of field marks. For that reason many people call him the "upside down" bird, while others who work with computers call him the "computer bird" because his bubbling "bob-o-link" song has a computer-like timbre to it. In a 1936 edition of "Birds of America" I found a list of sobriquets ending with "Robert". How about that birders? So you saw a Robert this morning! Unhuh!

But lets not stop there. Robert or Bob-o-link used to be considered the Dr. Jekyll and Mr. Hyde of the bird world. As Dr. Jekyll, while on his breeding grounds here in the Northeast, his diet consisted (as it still does) of wewils, cutworms, grasshoppers, etc. But when he followed his migration route south it took him through what formerly were the principal rice producing states where he turned into a Mr. Hyde. He arrived in this area just as the rice was ready for harvest and he and his companions, now in large flocks, would gorge themselves as they prepared for the long flight to their winter habitat in South America. For this reason the Bob-o-link was left off the list of bird species granted protection under the Federal Migratory Bird Law of 1913. But in time most of the rice producing areas moved west of the Bob-o-link's migratory route, so he is a member in good standing on the list.



## A D V I S O R Y   B U L L E T I N

July, 1987

The Wells National Estuarine Research Reserve is a combined effort by Federal, State, and Local groups to protect and make accessible to the public one of the last undeveloped stretches of coastal land in Southern Maine. The Primary goal of the Reserve is to promote research and education in order to better understand estuaries. Information learned through studies in the Reserve will foster wiser management of coastal resources.

This Advisory Bulletin is to inform you of events occurring at the Wells National Estuarine Research Reserve. For further information, Please contact Steve Meyer, Manager WNERR, Post Office Box 1559, Wells, Maine 04090. Telephone (207) 646-4521.

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Bob-o-links at the Reserve breed in the meadows and fields. Their nests are well scattered in depressions throughout the meadows and at the time of this writing contain 4-7 drab-colored eggs splashed or spotted with marks ranging fromumber to deep purple. By the end of July the young will have been hatched and families will join to form flocks. These will start moving south out of our area by the end of August. The end of next May or the beginning of June they possibly will be back on the Reserve. I say possibly because Bob-o-links, unlike many other bird species, do not always return to the same area year after year. Next year they may be at the Reserve or they may choose fields five or ten miles away. So if you want to see Bob-o-links, this is the year they have picked the meadows of the Reserve.

3.

Moving down the trail now we come to the salt marshes surrounding the estuary. Here we find the breeding ground of one of the many shore and water birds that live in or migrate through the Reserve - the Willet. A member of the sandpiper family which is noted for its colorfulness, the Willet is contender for one of the drabest of this group. That is true only when you see this large member of the family (14-16<sup>1</sup>/<sub>2</sub> inches) feeding on the estuary's mudflats. But once she takes to the air, she is a striking bird with her dramatically patterned black and white wings with a gray-tipped white tail. She is a noisy, assertive bird while in flight. In fact, duck hunters complain that during fall migration this raucous bird scares away their prey.



Currently there is at least one, possibly two or more, breeding pairs on the Reserve's salt marshes. Their nests are frail structures of dry grass lining hollows in the sand under clumps of marsh grass. Each has 4 greenish-white or dark brown olive eggs spotted with patches of brown and lavender. Please don't look for these nests because the odds are you will only find them by stepping on them. But you needn't worry about getting too close to the nests, because one of the Willets will start flying and screaming around you. Just start moving away from her raucous circular flight and you will be heading away from the nest.

In my 1936 edition of "Birds of America" the Willet is listed as "another of our rapidly vanishing shore birds." Fortunately for us, concerned citizens and our government have established Refuges, Sanctuaries, and Reserves that have saved portions of the habitat of the Willet and other "vanishing" shorebirds of the '30's. Now, with the exception of some species, shore birds are fairly common.

So when you visit the Wells Reserve in summer look for the once unprotected Bob-o-links up in the meadows around the Laudholm farm buildings and the Willets (who were a vanishing species in the '30's) down in the salt marshes. When you see them realize that it was the efforts and work of many years that made it possible for you to enjoy these birds.

Art Garland is a docent at the Wells Reserve retired from a career in broadcasting with General Electric. Art has been an avid birderwatcher for more than 50 years.

4.

Preliminary Visitors Center Plans Complete

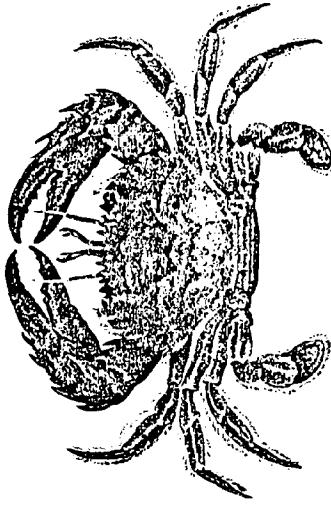
Moving down the trail now we come to the salt marshes surrounding the estuary. Here we find the breeding ground of one of the many shore and water birds that live in or migrate through the Reserve - the Willet. A member of the sandpiper family which is noted for its colorfulness, the Willet is contender for one of the drabest of this group. That is true only when you see this large member of the family (14-16<sup>1</sup>/<sub>2</sub> inches) feeding on the estuary's mudflats. But once she takes to the air, she is a striking bird with her dramatically patterned black and white wings with a gray-tipped white tail. She is a noisy, assertive bird while in flight. In fact, duck hunters complain that during fall migration this raucous bird scares away their prey.

Preliminary architectural plans for the renovation of the historic main house at Laudholm Farm into the Reserve Visitors Center have been completed by Cynthia Howard, architect for the project. The plans call for what is now the kitchen, the oldest part of the building, to be adapted into the reception area. Constructed in the 18th century many of the original features are intact. Exhibit space and an audiovisual room will also be located on the first floor.

The second floor of the building will have offices, a small library, and caretaker's apartment. Scientists and visiting lecturers will find pleasant accommodations on the third floor. Renovations are scheduled to begin this fall.

Volunteers Prepare Visitors Center for Renovation

A crew of volunteers, led by Herb Duffil, has been working on a regular basis in the main house in preparation for renovating the Visitors Center. Large amounts of junk have been removed, old wallpaper and ceilings are being removed and deteriorated walls and porches demolished. This contribution of time and energy will result in significant savings in the final cost of the project.



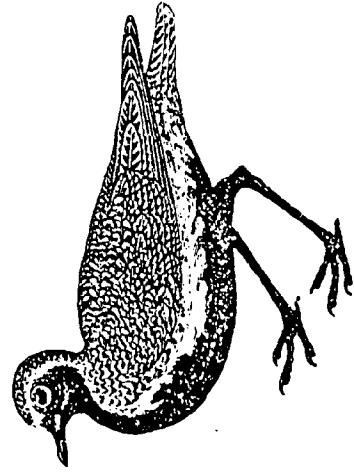
Security System Donated

New England Security of Sanford, Maine has pledged the donation of a complete fire and burglar alarm system for the Visitors Center and main barn. This state-of-the-art system will provide round-the-clock protection through a central monitoring system. It will be installed during the renovation of the visitors center.

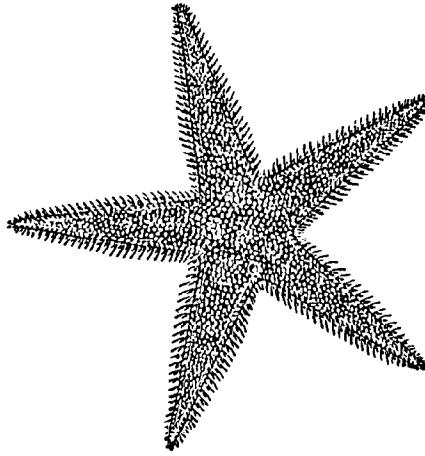
5.

Parking Lot Complete

Construction of the 75 car parking lot and access road have been completed by Tilcon Maine, Inc. The road and lot, designed by Land Use Consultants of Portland were built to minimize visual impact. The parking lot is hidden from view of the visitors center and final surfacing was done with tar and gravel giving the road and lot a more rural appearance. The project is the largest single donation to the Reserve to date. Land Use Consultants contributed a special wildflower seed mixture for planting around the parking lot.



6.



Maine Conservation Corps Starts Trail Work

A Maine Conservation Corps crew began an eight week trail construction project on June 22. The crew is being supervised by John Abbott and Katie Sedlak. John and Katie will lead the crew in improving trails cleared by last year's crew. Boardwalks and gravel with culverts will be used in wet areas. The trails will provide access to the overlooks and other areas of the Reserve.

Education Grant Awarded

The Reserve has received a \$200,000 grant for the development of an estuarine education program from the Jessie B. Cox Charitable Trust of Boston, Massachusetts. The grant, to be distributed over four years, will pay for design of Visitors Center exhibits, education and docent co-ordinator's salaries, interpretive trail design, and an audiovisual presentation. The project will result in a co-ordinated approach to estuarine education for both the public and school children visiting the Reserve.

Stone School Pilots Estuarine Study Program

The Stone Environmental School of Ocean Park, Maine offered a estuarine study program at the Reserve this Spring. Run as a pilot project it was well received by the Reserve and attending schools. The day-long program introduced 276 students to the ecology of the marsh, mudflats, channel, and other components of the estuary. The Reserve and Stone School plan to offer the program on a more frequent basis this Fall.

Overlook Construction to Begin

A contract for construction of three wooden overlooks has been given to the Beaver Corporation of Malden, Massachusetts. The overlooks will be constructed on the Little and Webhammet Rivers. Each will have an interpretive sign about estuaries. The overlooks will be built using funds from the Waterfront Action Grant program of the office of Ocean and Coastal Resource Management matched by Laudholm Trust. Completion is planned for this summer.

7.

Canadian Researcher Uses Reserve

Peter Baye, doctoral candidate at the University of Western Ontario, made a trip to the Reserve to collect specimens of American beach grass. Mr. Baye is comparing it to its European cousin.

During his visit in April Mr. Baye shared his knowledge of the evolution and ecology of Laudholm Beach in a special program sponsored by the Reserve.

Sedimentation Research

Dr. Duncan Fitzgerald of Boston University has recently begun his studies of sediment transport in the waters of the Wells Reserve. Dr. Fitzgerald and two graduate students will first take measurements in the Wells Harbor area of the Webbanner River where his findings will be of interest to the Town. The Town and U.S. Army Corps of Engineers are considering dredging the harbor which once was the home of a small commercial fishing fleet. Dr. Fitzgerald will also be studying the movement of sediments within the Little River.

Eelgrass Study Reveals the Cause of Disease

Dr. Frederick Short of the University of New Hampshire's Jackson Estuarine Laboratory has isolated the organism responsible for eelgrass wasting disease. A type of marine slime mold it causes extensive loss of eelgrass beds in the 1930's. Dr. Short is studying the disease with funding from the National Oceanic and Atmospheric Administration (NOAA). He will be transplanting healthy specimens into the waters of the Wells Reserve to see if the disease causing organism is present here. Herbarium records indicate that eelgrass was more common in the Reserve in the past.

1988 Research Proposals Reviewed

Nine proposals for scientific studies in the Reserve were received for the 1988 funding cycle. Topics ranged from fishery studies to the effects of diatoms on sedimentation. Each proposal was reviewed for scientific merit, appropriate methodology, and other factors by the Reserve's research committee. Reviews were forwarded to the Marine and Estuarine Management Division of NOAA where final decisions on funding will be made.

8.

Waquoit Bay Manager Visits Wells

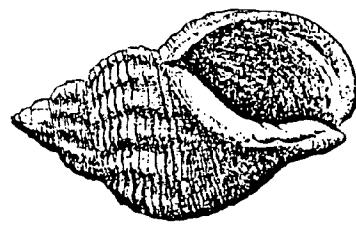
Ilo Howard, Manager of the Waquoit Bay (Massachusetts) National Estuarine Research Reserve visited the Wells Reserve in March. Massachusetts is in the process of acquiring the historic Swift estate. Ilo came to Maine to learn about plans for adapting the historic Laudholm Farm to meet the needs of the Wells Reserve and get ideas for the Waquoit Bay Reserve.

New Maintenance Supervisor Hired

Curtis Cain of York Beach, Maine was hired as the Reserve's new Maintenance Supervisor. Curt was most recently an electrician at the Portsmouth Naval Shipyard. He brings 8 years of experience in all aspects of maintenance from a previous position at the Marsalin Institute in Holliston, Massachusetts.

Manager Attends Spring Meeting

Reserve Manager Steve Meyer attended the spring meeting of the New England Estuarine Research Society in Boothbay Harbor, Maine. Meyer also made a presentation about the Wells Reserve at the Maine/New Hampshire Sea Grant meeting in May.



# Department of Environmental Protection

STATE OF MAINE

**MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA  
MAIL ADDRESS: State House Station 17, Augusta, 04333**

**DEAN C. MARRIOTT**  
Covered

JOHN R. MCKERNAN, JR.  
'00

TO: Robert Blakesley, State Planning Office  
FROM: Paula Clark, Director Bureau of Land Quality Control  
Department of Environmental Protection

This is the last quarterly report required by the 1986-87 memorandum of understanding between the State Planning Office and the D.E.P., Land Bureau. The final narrative for the whole project period will be submitted separately.

This project consists of the following:

- I. Tabulation of D.E.P. complaints received.
  - II. Tabulation of D.E.P. compliance inspections and enforcement actions.
  - III. Tabulation of D.E.P. permit applications
  - IV. Status of consent agreements.
  - V. Narrative description of major enforcement and licensing activities.
  - VI. Report of statutory changes related to the core laws.
  - VII. Report on federal consistency review and coordination activities.
  - VIII. Narrative description of Shoreland Zoning activities.

The following items will be sent to you separately:

  - a) the final narrative report for the entire project period;
  - b) an account of actual expenditures; and
  - c) a request for the transfer of funds.

REGIONAL OFFICES

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I. D.E.P. Complaints in the Coastal Area:  
May 1, 1987 through July 31, 1987

<u>Status</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>
Resolved	30	13	5	48
Pending	42	18	60	120
Deadfile	3	3	55	61
Total	75	34	120	229

II. D.E.P. Compliance inspections and enforcement actions in the coastal area  
May 1, 1987 through July 31, 1987

<u>Region/ Statute</u>	<u>Compliance Inspections</u>	<u>Consent Attempted</u>	<u>Agreement Resolved</u>	<u>Pending</u>	<u>Referrals to Attorney General</u>
<u>Downeast:</u>					
Site Wetlands	3	-	-	-	-
Solid Waste	3	2	-	2	-
Total	25	2	-	2	-
<u>Coastal:</u>					
Site Wetlands	2	1	-	1	-
Solid Waste	4	1	-	2	-
Total Coastal:	6	2	-	3	-
<u>Southern:</u>					
Site Wetlands	-	5	-	5	-
Solid Waste	-	4	-	4	-
Total	33	10	-	12	-
				26	0

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III. D.E.P. permit applications in the coastal area May 1, 1987 through July 31, 1987

<u>Law/Type</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>
Coastal Wetlands Law	14	20	34	68
Sand Dune Law	-	-	50	50
Great Ponds Law	2	5	-	7
Stream Alteration Law	6	6	8	20
Freshwater Wetlands Law	-	-	3	3
Hydro/Dams Law	-	-	3	3
<u>Site Location Law</u>				
Mining/Gravel Pits	7	1	3	3
Industrial/Commercial	2	3	19	27
Residential	5	6	18	23
Solid Waste	1	-	5	16
Other	-	-	-	1
Total	37	41	143	193

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IV. Status of consent agreements:  
May 1, 1987 through July 31, 1987

The following consent agreements are pending:

1. Robert Rosenthal and Bo-Ed, Inc.  
Brunswick - Site Law
  2. Rebecca Frost, John Furbush, Merritt Shapleigh, Jr.  
Eliot - Site Law
  3. Ellis Equipment and Demolition Removal  
Arundel - Solid Waste Laws
  4. Michael Coggeshall  
Wells - Solid Waste Laws
  5. Merrymeeting Developers, Inc.  
Berwick - Site Law
  6. Bruce Publiccover  
Scarborough - Sand dunes Law
  7. Lucien Thibeault  
Harpswell - Coastal Wetlands
  8. Maine Energy Recovery Co. and General Electric  
Biddeford - Solid Waste & Site Law
  9. Reginald Cain  
Arundel - Solid Waste Law
  10. John P. Martin  
Saco - Coastal Wetlands Law
  11. Kfroury Wernshenk  
Cape Elizabeth - Site Law
  12. Kent Hilton, Lee Adams  
Yarmouth - Solid Waste Law
  13. Parkview Realty  
Brunswick - Site Law
  14. Dwinton Williams  
Heils - Coastal Wetlands Law
  15. Consolidated Excavators, Inc.  
Old Orchard Beach - Stream Alteration Law
  16. Town of Scarborough  
Scarborough - Solid Waste Law
17. Wallace A. Putnam  
Wells - Coastal Wetlands
18. Albert Farrah - Tenny Construction  
Kittery - Freshwater Wetlands Law
19. Stanley Douglas  
Scarborough - Solid Waste Law
20. Robert Levesque  
South Berwick - Solid Waste Law
21. Town of Perry  
Perry - Solid Waste Law
22. Ocean Products, Inc.  
East Machias - Protection & Improvement of Waters, Section 413
23. Kleinschmidt Associates  
East Machias - Protection & Improvement of Waters, Section 413
24. Thomas Dicenza, Inc.  
East Machias - Protection & Improvement of Waters, Section 413
25. City of Calais  
Calais - Solid Waste Law
26. Amy Trafton  
Swan's Island - Coastal Wetlands Law
27. Lawrence Stanley  
Swan's Island - Coastal Wetlands Law
28. Mill Cove Associates  
Boothbay Harbor - Coastal Wetlands Law
29. Town of Boothbay  
Boothbay - Solid Waste Law
30. Town of Belfast  
Belfast - Solid Waste Law
31. J. Grant Burke Trust  
Bristol - Site-Subdivision
32. John McConchie  
St. George - Coastal Wetland Law

The following consent agreement was resolved:

Laval Duke  
Biddeford - Stream Alteration Law

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V. Narrative description of major activities:

May 1, 1987 through July 31, 1987

Enforcement activities

1. Donald Hall - Phippsburg -

The Board of Environmental Protection appealed a Superior Court decision in 1986 - that it had created a "taking" of the Hall's property by denying them a "sand dunes" permit in 1983. The Maine Supreme Court found that no "taking" had occurred and upheld the right of governmental entities to prevent environmentally damaging activities by private owners as long as their land has some remaining uses. The Halls must now remove the structure they built without the proper permits.

2. Ocean Products, Inc. - East Machias -

Ocean Products, Inc. obtained an Alteration of Rivers, Streams and Brooks permit to construct a fish hatchery on Chase Mills Stream, which drains into the tidal area of the Machias River. As a result of a complaint investigation, Staff discovered that Ocean Products, Inc. had not properly constructed the hatchery, and had caused a massive siltation event that reached out into Machias Bay. We have consequently learned of 2 previous siltation events, and have witnessed a fourth event. Because of the magnitude of the violations, the staff person has written consent agreements with all the parties involved; Ocean Products, Inc. Kleinschmidt Associates and Dicenzo, Inc. Oceans Products consent agreement requires in part.

3. Sawyer Environmental Recovery Facilities, Inc. - Hampden -

A consent agreement signed in January 1986, required, in part, that SERF prepare a remedial action plan for the landfill. Staff has needed to provide tremendous amounts of guidance to SERF in the development of an appropriate plan. The plan has been submitted and will go to the Board of Environmental Protection for their review and approval on August 12, 1987.

4. Town of Richmond -

Richmond had entered into a Consent Agreement on November 1982 requiring their dump be closed and it allowed interim operation of a "stump dump". The deadline for closure of the stump dump in November 1987. The town has yet to submit an application for a new site or closing plan for the current site. Either the existing Consent Agreement will need modification or a new one will be drafted.

5. Town of St. George -

St. George is another Town that had entered into a Consent Agreement for solid waste violations at their dump and due to staff changes was never fully followed up on. They had received approval for a landfill but failed to start within 2 years and is therefore void. The Town is to vote in August on pursuing either landfill or transfer station. A consent agreement will need to be drafted locking the town into closure and staff follow up is needed.

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Licensing activities:

1. William Seaward, Jr. has proposed a marina with 6500 linear feet of dockage, to provide 134 berths for boats from 25 to 120 feet in length on Badger's Island in the Piscataqua River in Kittery, Maine. The surface area of the portion of the area on the water will be 3.2 acres (+). The intertidal and subtidal area will be dredged to 8 feet below MLLW requiring disposal of 50,000 cubic yards of material at the Cape Arundel offshore disposal site. The shoreline of the entire property will be riprapped at a 2:1 slope between MLLW and the top of the bank. The Bureau of Public Lands has granted a submerged lands lease (#19-16) and a dredging lease (3-920) for this project. The applicant now wishes to modify the permit to excavate part of the bank and install a seawall to provide more water space for the marina.
2. Saco Seawall:  
  
The U.S. Army Corps of Engineers proposed to construct an 800 foot long pre-cast modular concrete seawall to replace an existing deteriorating rock wall located along Surf Street adjacent to Ferry Beach in Saco. Since the project was indirect conflict with the Maine Sand Dune Rules, due to the damage it could cause to the beach system, the Department did not concur with the Corps Consistency Determination. In order for a concurrence to be issued the project would need to be modified to utilize existing rock on-site rebuilding the existing wall to its original dimensions. The City of Saco currently has applied to the Department to rebuild the wall utilizing the existing rock. A meeting with the Corps, the City of Saco and Department staff is tentatively scheduled for August 13th to discuss other alternatives to deal with the areas erosion problems.
3. Atlantic Condos:  
  
This proposal is for a 96 unit 8 story residential condominiums, 2 two story parking garages and an artificial dune located on Old Orchard Beach. Sea level rise, beach erosion and retreat, flooding, and interference with natural dune processes are the central issues. Secondary issues are the obstruction of scenic view and shading of the beach and adjacent structures. 5 experts commented on sea level rise impacts. Resulting in a denial is being recommended to the Board of Environmental Protection. Staff concluded the project may be in the Intertidal Zone within 100 years. Cascade Woods, Saco.
4. DJJ Associates, Old Orchard Beach:  
  
DJJ Associates proposes to remove existing summer cottages from a 2.25 acre beach side lot and a 0.41 lot across the street. On the beachside lot, the applicants propose to construct a 7-story, 115 unit condominium building with a 40,573 square foot footprint, while the other lot will be diverted to overflow parking. The beachside lot features a vegetated frontal dune and a single seawall 50 feet in length (the total shore frontage is 365 feet). The project is presently out to review and will be dealt with by the Board of Environmental Protection in December, with the key issue being the effects of sea level rise on the project.

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5. The Woodlands, Falmouth

On April 22, 1987, the Board approved an application to develop an 18-hole golf course and a 95-lot residential subdivision on a 350-acre parcel of land in Falmouth. The approval was subject to several conditions, including a condition which required the purchase and preservation of 140 acres of nearby habitat to offset the destruction of important deer wintering habitat on the project site.

On May 22, 1987, the Natural Resources Council of Maine (NRCM) petitioned the Board to reconsider and reverse its decision. NRCM argued that the Board has illegally established a dangerous precedent allowing the destruction of one-half of wildlife habitat remaining in the organized territories of Maine.

On June 26, 1987, the Board considered NRCM's petition and declared to reverse its prior decision... The Board disavowed that the Woodlands decision has established a rule to be applied to all future Site Location applications. The Board concluded that the preservation of 140 acres of deer habitat offsets the destruction of deer habitat on the project site and supports a finding that the development would not adversely effect the natural environment in the Falmouth area.

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VII. Federal Consistency Review and Coordination Activities 5/2/87 to 7/31/87

5. The Woodlands, Falmouth

6/5/87 met with representatives of the U.S. Army Corps of Engineers and the Department of Marine Resources to discuss renewal of the Federal Consistency Concurrency/Water Quality Certification from dredging the Piscataquis River.

6/8/87 spoke with the Federal Aviation Administration's representative on modification of a Federal Consistency Administration/Water Quality Certification order issued in April 1987 for construction of intersection lights in Portland.

7/2 received FAA modification request.

7/8 wrote a letter to the U.S. Army Corp of Engineers concerning their request for Federal Consistency Determination/Water Quality Certification for dredging of ??. The letter requested that an ? extension be granted and ? alternative dredge spoil disposal sites be explored.

7/9/87 issued a nonconcurrence to a Federal Consistency Determination concurrence request from the U.S. Army Corps of Engineers to construct a seawall at Camp Ellis in Saco.

Issued a renewal of a Federal Consistency Determination concurrence and Water Quality Certification to the U.S. Army Corps of Engineers for Dredging of the Piscataquis River in Kittery.

VI. Statutory changes

There were several statutory changes passed by the 113th Legislature. With one exception - the Solid Waste Bill - they were all minor. Copies of eight pieces of legislation will be sent to you under separate cover. They are P.L. 1987, ch. 94, 130, 192, 287, 346, 381, 514 and 517.

Attached is a booklet entitled Legislative Summary at Bills Impacting the D.E.P. Each of these bills is highlighted in the booklet, and the Solid Waste Bill is outlined in detail on pp. 13-14.

There were no changes in regulations affecting the Coastal zone during this period.

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VIII. Shoreland Zoning Report Under C7 Requirements 5/1/87 - 7/31/87

The State legislature received several bills relating to shoreland zoning during the legislative session which ended during this reporting period. One of those bills was submitted by Governor McErlean and included some significant proposals for change in the mandatory shoreland zoning Statute. Unfortunately the legislature did not have time to closely study the Governor's proposals and instead decided to delay action on the issue until the next legislative session in January 1988. Although no major legislative changes were made to the shoreland zoning statute by the past legislature, several minor statutory changes were adopted. Those changes include the following legislature documents.

1. LD 138, PL 1987, Chapter 94, asserts the authority of municipalities to regulate structures built on, over or adjacent to piers, docks or wharfs even if the local ordinance regulating such structures was adopted prior to 1985.
2. LD 1336, PL 1987, Chapter 182 requires municipal subdivision and zoning variances to be recorded at the Registry of Deeds.
3. LD 1761, PL 1987, Chapter 381 requires inspectors and certification of septic systems prior to the transfer of property within the shoreland zone.
4. LD 1868, PL 1987, Chapter 419 prohibits timber harvesting in resource protection districts adjacent to ponds.

We are hopeful that more sweeping legislative changes will occur this spring.

In other areas, the shoreland zoning unit has made greater progress. With second staff member hired contacts with municipalities have increased. The units ability to provide technical assistance to municipalities has doubled. Furthermore, the backlog of local ordinances which are in need of review has been greatly reduced. Shoreland zoning ordinances for the towns of Ashland, Boothbay Harbor, Brunswick, Carrabasset Valley, Frenchboro, St. George, Hells and York have reviewed and recommended changes have been made to the respective towns.

Also during the reporting period efforts have been made to establish a shoreland zoning newsletter. We believe that a greater effort must be made to keep local officials informed on shoreland zoning matters. The newsletter will be published several times per year and will include information such as changes in State zoning requirements, State interpretation of ordinance language, questions and answer sections, and a feature article with each issue. The first feature article deals with proper record keeping by local administrators such as planning boards, boards of appeals and code enforcement officers. The first newsletter is presently being printed and will be mailed to all municipalities in early September.

We have worked cooperatively with the State Planning Office and the Department of Inland Fisheries and Wildlife (IFW) to promote the Penobscot Bay Conservation Plan. The Plan drafted by IFW includes: 1) a comprehensive and systematic identification and evaluation of coastal wildlife species and their habitats and 2) specific land and water-use guidelines based on the relative national, state, regional and local significance of geographically delineated coastal wildlife habitats. The report based on actual field data, provides much needed justification required for land use rules and decisions. Two public meetings for town officials in the Penobscot Bay area have been held and the shore and zoning unit has offered its support and assistance to those towns wishing to incorporate the study recommendations into their ordinances.

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Also during this reporting period the Shoreland Zoning Task Force met and established several policies regarding the minimum ordinance requirements. The task force maintained that:

- 1) The minimum lot size requirement for residential lots pertains to the general development district as well as the limited residential district.
- 2) A resource protection district which surrounds wetlands of significance to water-fowl must extend 250 feet inland for the normal high watermark.
- 3) Boat houses must meet set-back requirements while bait sheds may be located adjacent to waters.
- 4) In the resource protection district the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district. This policy is significant in that it address vegetation rather than only trees. The model ordinance is presently being modified to reflect this policy.

Initial work has begun for revisions to the State's model ordinance. Public meetings are being held in 13 locations through-out the state. We expect to adopt ordinance revisions before April 1988.

# STATE OF MAINE Department of Environmental Protection

STATE OF MAINE

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET AUGUSTA  
MAIL ADDRESS: State House Station 17 Augusta 04333

JOHN R. McFERNAN, JR.  
COMMISSIONER  
GOVERNOR

TO: Robert Blakesley, State Planning Office

FROM: Paula Clark, Department of Environmental Protection

DATE: October 14, 1987

SUBJ: Final narrative report of activities within the Shoreland Zone  
for the '86-'87 M.O.U.

\* \* \* \* \*  
This report is the final work product required under the Memorandum of  
Understanding for the '86-'87 Coastal Zone Management Grant (Oct. '86  
through July '87).

It is broken down into four parts:

I - Report on the Shoreland Zoning Program;  
II - Major enforcement, licensing and consistency issues;

III - Major activities of the Assistant Engineer; and

IV - Strategy for securing state funding for full-time positions.

## EXHIBIT D-7

### Shoreland Zoning Narrative Report (August '86-July '87)

The Shoreland Zoning program has now been administered by the Department of Environmental Protection for more than a year, having been transferred from the State Planning Office in May of 1986. During the past year, a significant portion of time has been devoted toward drafting the Biennial Shoreland Zoning Report to the Legislature (copy attached) as required by state law. The report contains numerous recommendations which the Department believes will enhance the shoreland zoning program. Many of the recommendations will require action on the part of the legislature. Major recommendations include:

1. increased technical assistance to municipalities.
2. creation of a more effective enforcement mechanism in order to gain greater compliance on the part of municipalities.
3. updating the state's minimum guidelines ordinance.
4. expanding the regulated shoreland area.
5. establishing the Board of Environmental Protection as the sole decision-making authority under the shoreland zoning program.
6. undertaking a comprehensive review and evaluation of present municipal ordinances for consistency with the guidelines ordinance.
7. requiring ordinance amendments to be approved by the Department before becoming effective.

Efforts during the coming year will be centered on realizing the above goals. It is hoped that the legislature will enact the needed changes to the Act when it reconvenes in 1988.

There were few legislative actions during the recently adjourned session which affect the shoreland zoning program. The following laws which will directly or indirectly affect shoreland areas were adopted, however.

1. LD 138, Public Law 1987, Chapter 94, ratifies local ordinances which regulate structures on piers, docks, etc., even if such ordinances were adopted prior to 1988 legislation which specifically allowed the local regulation of such structures.
2. LD 1336, Public Law 1987, Chapter 182, requires municipal subdivision and zoning (including shoreland zoning) variances to be recorded at the Registry of Deeds.
3. LD 1761, Public Law 1987, Chapter 381, requires inspection and certification of septic systems prior to transfer of property within the shoreland zone.
4. LD 1764, Public Law 1987, Chapter 514, amends the local subdivision law to require review of 40 acre "spaghetti" lots with water frontage.
5. LD 1868, Public Law 1987, Chapter 419, prohibits timber harvesting in districts zoned for resource protection adjacent to ponds.

In other matters pertaining to shoreland zoning, the shoreland zoning task force met three times during the period covered by this report. Perhaps the most important action by the task force was the decision that a municipality could not include land areas below normal high water in lot area calculations. The city of South Portland had allowed for up to 25% of the intertidal area to be included in the lot area calculation. South Portland was required to remove this allowance from the shoreland ordinance establishing a clear state policy against such a practice.

The task force also concluded that the present "clearing" standard in the minimum ordinance is not adequate and should be amended to address the cutting of vegetation other than trees larger than six inches in diameter.

The task force also devoted the greater part of one meeting discussing available enforcement mechanisms for use against municipalities which repeatedly fail to administer and/or enforce its shoreland zoning ordinance. The conclusion of the task force is that present enforcement mechanisms are inadequate and that legislative change is necessary if the state is to provide a real threat to towns which do not address shoreland zoning activities seriously.

Several policies were adopted by the task force which directly relate to the minimum ordinance. These policies include the following:

1. In districts zoned as resource protection, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Residential lot standards apply to both the limited residential district and the general development district. In the general development district lot dimension requirements in local ordinances may be relaxed only after review and approval by the task force.
3. Land areas within 250 feet of wetlands designated as "resource protection" districts shall not be considered for building as if that land area were in the residential district. Thus, buffer strips 250 feet wide should be established around wetland areas, particularly those of moderate to high value for waterfront.
4. New boat houses must be set back 75' from the normal high water mark. Boat sheds, on the hand, need not be set back 75 feet.

Additional activities during the reporting period included participation in informational meetings in all areas covered by the regional councils. Attended mostly by municipal officials, these meetings were designed to inform local officials about zinc's core laws, including the Shoreland Zoning Act. Staff also conducted workshops specific to shoreland zoning in cooperation with several regional councils. Other workshops included four sessions in mid-coastal Maine sponsored by the Soil and Water Conservation Districts.

Throughout the year staff efforts have been directed toward assisting local officials with shoreland zoning administration. Increased shoreland development, both inland and along the coast, has caused many municipalities to reassess their shoreland requirements. Coastal towns, such as Deer Isle, Eastport, Georgetown, Kittery, Tremont, Eliot, and York have sought D.F.P. assistance. Many of the southern coastal towns have undertaken major efforts to strengthen local ordinances. Unfortunately, numerous proposals for change have been defeated by the voters, a sign that personal interests may still outweigh concerns for protection of shoreland areas. However, the defeat of some ordinances may have simply been the result of unrealistic proposals which may need to be relaxed.

A review of current ordinances administered by communities along the central and downeast coastline has revealed two areas of concern which need to be addressed. The first concern is that many towns have not updated their shoreland ordinance since their adoption in the mid-seventies. Secondly, numerous other towns have ordinances which do not meet minimum standards. For example, the towns of Lamoine and Bristol allow commercial activities throughout the shoreland zone and Bremen has not established adequate "resource protection" districts, particularly relating to wetland protection. Efforts will be made to get these towns to strengthen their ordinance.

In addition to assisting municipalities with administrative duties, the shoreland zoning unit has also helped with enforcement needs. The most noteworthy example is the assistance provided to the town of Jonesboro when a developer conducted excessive clearing activities in a resource protection zone. With assistance from both the shoreland zoning staff and the Attorney General's office, the town of Jonesboro and the violator entered into a consent agreement. The consent agreement required the area to be replanted by the developer and in addition required a \$5,000.00 penalty.

In the coming six months a major effort will be directed at revising the present minimum ordinance. Fifteen public meetings are scheduled in October to gather input toward the revisions. Furthermore, an advisory committee is presently being formed to help guide the revision process. The Department expects the revised ordinance to be in final form by the late spring of 1988.

..1. The two major issues facing the coastal zone are the continuing solid waste disposal problems and the northward expansion of the land development boom. The Legislature dealt seriously with the solid waste question with I.L. 1987, Ch. 517; and if the voters approve the upcoming and subsequent bond issues, much progress can be made in the long term.

Dealing with development pressures will require some fundamental policy and statutory changes in the Site Location of Development Law and in the various wetland-type laws.

Another issue of concern is the marked increase in the number of complaints received for the coastal area, as shown by the following table:

October 1986 through January 1987	-	161 complaints
February 1987 through April 1987	-	176 complaints
May 1987 through July 1987	-	229 complaints

This has a direct impact on how thoroughly the enforcement staff can perform compliance inspections on licensed projects, do solid waste inspections, and follow through with enforcement actions and consent agreements. It is noteworthy here that the Joint Standing Committee on Audit and Program Review is examining the Department's enforcement program.

The following list covers the most important applications, enforcement actions, and consistency reviews to take place over the term of this I.L.U. In the interests of brevity, I will not rewrite the descriptions for these projects but will instead refer you to one of the three reports already submitted (March 23, 1987; June 26, 1987; or September 9, 1987).

#### Enforcement Actions

Donald Hall, Philipsburg - March and September  
Mill Cove Associates, Boothbay Harbor - March  
Town of Boothbay - March and June  
Main Energy Recovery Co., Biddeford - March  
Ocean Products, Inc., East Machias - June

#### Consistency Reviews

..5. Army Corps of Engineers, Camp Ellis seawall, Saco - June and September

#### Permit Applications

Great Diamond Island, Casco Bay - March  
Swift River Co., Bangor - March  
Long Wharf, Portland - March  
Cown East Peat, Deblois - March  
Sable Oaks Properties, South Portland - March  
Baycenter Condos, Belfast - June  
Atlantic Condos, Old Orchard Beach - September  
The Woodlands, Falmouth - September

TABLE 1

Application Review

	Subdivisions/Housing Complexes	Industrial Projects	Mining	Office Parks	Solid Waste	Miscellaneous
Subtotal	10	1	2	1	7	3
% of subtotal	11	2	3	1	7	3
<b>Total</b>	<b>24</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>7</b>	<b>3</b>
<b>% of total</b>	<b>27</b>					

Pre-Application Conferences

	Subtotal	% of subtotal	Subtotal	% of subtotal	Subtotal	% of subtotal
Subtotal	13	15	13	15	10	11
% of subtotal	15					
<b>Total</b>	<b>39</b>		<b>39</b>		<b>30</b>	
<b>% of total</b>	<b>33</b>					

Educational Training

	Subtotal	% of subtotal	Subtotal	% of subtotal	Subtotal	% of subtotal
Subtotal	28	15	28	15	10	11
% of subtotal	15					
<b>Total</b>	<b>89</b>		<b>89</b>		<b>30</b>	
<b>% of total</b>	<b>33</b>					

Educational Training

	Subtotal	% of subtotal	Subtotal	% of subtotal	Subtotal	% of subtotal
Subtotal	10	11	10	11	10	11
% of subtotal	11					
<b>Total</b>	<b>89</b>		<b>89</b>		<b>30</b>	
<b>% of total</b>	<b>33</b>					

Licensing Issues

As reflected in the numbers shown in Table 1, the coastal zone is receiving a significant amount of development, particularly in the housing market. Residential subdivisions/housing complexes comprised 42% of the new applications received during the reporting year. Reviews of these applications were primarily for stormwater runoff, erosion/sedimentation control, and ground water considerations. While reviews of erosion control plans are usually quite straightforward, the other two categories require a much more detailed analysis. Stormwater reviews must evaluate stream flow routing, peak flow quantities, storage requirements, as well as downstream effects of post-development flow. Depending on the density of the development, ground water considerations include contamination potential of the wells from the septic systems if both on-site wells and septic systems are proposed.

Another major issue has been the disposal of solid waste. While comprising only 29% of the new applications, these facilities have consumed a significant amount of review time. These applications have consisted of transfer stations, landfills and a refuse-derived fuel waste-to-energy plant.

Miscellaneous projects comprised 13% of the new applications. Projects in this category included, among others, review of maintenance dredging of waterways, a wastewater treatment facility, and demolition debris disposal sites.

Enforcement Issues

Projects in this category accounted for 31% of the total workload. Projects included review of a stormwater management case, a landfill closing plan, and several inspections of licensed, operating landfills. Due to the nature of enforcement issues, much of the time spent on these projects was in the field.

Educational Training

Educational training is essential to effectively do technical reviews of the wide variety of projects which fall under the site law. During the reporting period, ten short courses/training sessions were attended. These sessions included information regarding erosion and sedimentation control, computers, landfills, soils, as well as a number of sessions regarding laws administered by the Land Bureau.

Case History

The following case history is representative of the projects reviewed by the Assistant Engineer. The unusual aspect of this project was that it included support for both the Licensing and Enforcement Divisions.

Willow Grove Subdivision, Brunswick

In March, Verrier Construction Company submitted an application for Willow Grove subdivision which was to be located off McKee Street in Brunswick. The application was for 87 single family homes on 31 acres in 9 separate phases. After reviewing the application, staff discovered that the consultant estimated that this project would cause a 45 cfs increase in stormwater runoff at the peak hour. The consultant had proposed to route this stormwater runoff to an existing detention basin at the Woodside subdivision, which is located to the south of Willow Grove. The problem with this proposal was that Woodside subdivision was a DEP approved subdivision that already had some very significant problems with their stormwater detention basin.

In June, summarized review comments and additional information required was sent to the project manager concerning the proposed modifications to the Woodside detention basin. In response to the Engineer's comments, the applicant submitted design plans and specifications concerning the stormwater management plan.

The problem with the proposed changes was that the contractor would not be able to complete the modifications for several months. Applicant asked for approval of Phase 1, since it drained to a different drainage area, and the other phases would be contingent upon completion of the proposed modifications.

In late June, the DEP issued an Order permitting the project with a condition that stated that Phases #2 through 9 shall not be constructed until the applicant submitted information demonstrating that the drainage structures at the Woodside subdivision are operating properly.

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EXHIBIT D-7

STATE OF MAINE  
**Department of Environmental Protection**

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA  
MAIL ADDRESS: State House Station 17, Augusta, 04333  
JOHN A. MCKEAN, JR.  
GOVERNOR  
DEAN C. MARSHOTT  
COMMISSIONER

TO: Robert Blakesley, State Planning Office

FROM: Paula Clark, Department of Environmental Protection

DATE: October 14, 1987

SUBJ: Final narrative report of activities within the Shoreland Zone

for the '86-'87 M.O.U.

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*  
This report is the final work product required under the Memorandum of Understanding for the '86-'87 Coastal Zone Management Grant (Oct. '86 through July '87).

It is broken down into four parts:

I - Report on the Shoreland Zoning Program;

II - Major enforcement, licensing and consistency issues;

III - Major activities of the Assistant Engineer; and

IV - Strategy for securing state funding for full-time positions.

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Shoreland Zoning Narrative Report  
(August '86-July '87)

The Shoreland Zoning Program has now been administered by the Department of Environmental Protection for more than a year, having been transferred from the State Planning Office in May of 1986. During the past year, a significant portion of time has been devoted toward drafting the Biennial Shoreland and Zoning Report to the Legislature (copy attached) as required by state law. The report contains numerous recommendations which the Department believes will enhance the shoreland zoning program. Many of the recommendations will require action on the part of the legislature. Major recommendations include:

1. increased technical assistance to municipalities.
2. creation of a more effective enforcement mechanism in order to gain greater compliance on the part of municipalities.
3. updating the state's minimum guidelines ordinance.
4. expanding the regulated shoreland area.
5. establishing the Board of Environmental Protection as the sole decision-making authority under the Shoreland zoning program.
6. undertaking a comprehensive review and evaluation of present municipal ordinances for consistency with the guidelines ordinance.
7. requiring ordinance amendments to be approved by the Department before becoming effective.

Efforts during the coming year will be centered on realizing the above goals. It is hoped that the legislature will enact the needed changes to the Act when it reconvenes in 1988.

There were few legislative actions during the recently adjourned session which affect the shoreland zoning program. The following laws which will directly or indirectly affect shoreland areas were adopted, however.

1. LD 138, Public Law 1987, Chapter 94, ratifies local ordinances which regulate structures on piers, docks, etc., even if such ordinances were adopted prior to 1985 legislation which specifically allowed the local regulation of such structures.
2. LD 1336, Public Law 1987, Chapter 182, requires municipal subdivision and zoning (including shoreland zoning) variances to be recorded at the Registry of Deeds.
3. LD 1761, Public Law 1987, Chapter 381, requires inspection and certification of septic systems prior to transfer of property within the shoreland zone.
4. LD 1764, Public Law 1987, Chapter 514, amends the local subdivision law to require review of 40 acre "spaghetti" lots with water frontage.
5. LD 1868, Public Law 1987, Chapter 419, prohibits timber harvesting in districts zoned for resource protection adjacent to ponds.

In other matters pertaining to shoreland zoning, the shoreland zoning task force met three times during the period covered by this report. Perhaps the most important action by the task force was the decision that a municipality could not include "and areas below normal high water in lot area calculations. The city of Outer Banks believed that such areas were to be excluded from the intent of the ordinance. The task force was required to review this guidance from the state. Guidance was established by the state policy against such a practice.

The task force also concluded that the present "clearing" standard in the minimum ordinance is not effective and should be altered to address the cutting of vegetation other than trees larger than six inches in diameter. The task force also devoted the greater part of one meeting discussing available enforcement mechanisms for use against municipalities which refused to administer and/or enforce its shoreland zoning ordinance. The conclusion of the task force is that present enforcement mechanisms are inadequate and that legislative change is necessary if the state is to provide a real threat to towns which do not address shoreland zoning activities seriously.

Several policies were adopted by the task force which directly relate to the minimum ordinance. These policies include the following:

1. In districts zoned as resource protection, the clearing of vegetation shall be limited to that which is necessary, for uses expressly authorized in that district.
2. Residential lot standards apply to both the limited residential district and the general development district. In the general development district lot dimension requirements in local ordinances may be relaxed only after review and approval by the task force.
3. Land areas within 250 feet of wetlands designated as "resource protection" districts shall not be considered for building as if that land area were in the residential district. Thus, buffer strips 250 feet wide should be established around wetland areas, particularly those of moderate to high value for waterfront.
4. New boat houses must be set back 75' from the normal high water mark. Boat sheds, on the hand, need not be set back 75' feet.

Additional activities during the reporting period included participation in informational meetings in all areas covered by the regional councils. Attended first by municipal officials, these meetings were designed to inform local officials about the core laws, including the Shoreland Zoning Act. Staff also conducted workshops specific to shoreland zoning in cooperation with several regional councils. Other workshops included four sessions in mid-coastal Maine sponsored by the Soil and Water Conservation Districts.

Throughout the year staff efforts have been directed toward assisting local officials with shoreland zoning administration. Increased shoreland development, both inland and along the coast, has caused many municipalities to reassess their shoreland requirements. Coastal towns, such as Deer Isle, Eastport, Georgetown, Kittery, Tremont, Eliot, and York have sought D.E.P. assistance. Many of the southern coastal towns have undertaken major efforts to strengthen local ordinances. Unfortunately, numerous proposals for change have been defeated by the voters, a sign that personal interests may still outweigh concerns for protection of shoreland areas. However, the defeat of some ordinances may have simply been the result of unrealistic proposals which may need to be relaxed.

A review of current ordinances administered by communities along the central and downeast coastline has revealed two areas of concern which need to be addressed. The first concern is that many towns have not updated their shoreland ordinance since their adoption in the mid-seventies. Secondly, numerous other towns have ordinances which do not meet minimum standards. For example, the towns of Lamoine and Bristol allow commercial activities throughout the shoreland zone and Bremen has not established adequate "resource protection" districts, particularly relating to wetland protection. Efforts will be made to get these towns to strengthen their ordinance.

In addition to assisting municipalities with administrative duties, the shoreland zoning unit has also helped with enforcement needs. The most noteworthy example is the assistance provided to the town of Jonesboro when a developer conducted excessive clearing activities in a resource protection zone. With assistance from both the shoreland zoning staff and the Attorney General's office, the town of Jonesboro and the violator entered into a consent agreement. The consent agreement required the area to be replanted by the developer and in addition required a \$5,000.00 penalty.

In the coming six months a major effort will be directed at revising the present minimum ordinance. Fifteen public meetings are scheduled in October to gather input toward the revisions. Furthermore, an advisory committee is presently being formed to help guide the revision process. The Department expects the revised ordinance to be in final form by the late spring of 1988.

II. The two major issues facing the coastal zone are the continuing solid waste disposal problems and the northward expansion of the land development boom. The Legislature dealt seriously with the solid waste question with P.L. 1987, Ch. 517; and if the voters approve the upcoming and subsequent bond issues, much progress can be made in the long term.

Dealing with development pressures will require some fundamental policy and statutory changes in the Site Location of Development Law and in the various wetland-type laws.

Another issue of concern is the marked increase in the number of complaints received for the coastal area, as shown by the following table:

October 1986 through January 1987 (4 months)	-	161 complaints
February 1987 through April 1987 (3 months)	-	176 complaints
May 1987 through July 1987 (3 months)	-	229 complaints

This has a direct impact on how thoroughly the enforcement staff can perform compliance inspections on licensed projects, do solid waste inspections, and follow through with enforcement actions and consent agreements. It is noteworthy here that the Joint Standing Committee on Audit and Program Review is examining the Department's enforcement program.

The following list covers the most important applications, enforcement actions, and consistency reviews to take place over the term of this I.C.U. In the interests of brevity, I will not rewrite the descriptions for these projects but will instead refer you to one of the three reports already submitted (March 23, 1987; June 26, 1987; or September 9, 1987).

#### Enforcement Actions

Donald Hall, Phillipsburg - March and September  
Mill Cove Associates, Coothbay Harbor - March  
Town of Boothbay - March and June  
Maine Energy Recovery Co., Biddeford - March  
Ocean Products, Inc., East Machias - June

#### Consistency Reviews

U.S. Army Corps of Engineers, Camp Ellis seawall, Saco - June and September  
Permit Applications

Great Diamond Island, Casco Bay - March  
Swift River Co., Bangor - March  
Long Wharf, Portland - March  
Down East, Deblois - March  
Sable Cat's Properties, South Portland - March  
Baycenter Condos, Belfast - June  
Atlantic Condos, Old Orchard Beach - September  
The Woodlands, Falmouth - September

TABLE 1

Application Review

<u>Subdivisions/Housing Complexes</u>	10
<u>Industrial Projects</u>	1
<u>Mining</u>	2
<u>Office Parks</u>	1
<u>Solid Waste</u>	7
<u>Miscellaneous</u>	3
<b>Subtotal</b>	<b>24</b>
<b>% of total</b>	<b>27</b>

Inspections

<u>Solid waste</u>	11
<u>Industrial</u>	2
<u>Miscellaneous</u>	1

<b>Subtotal</b>	<b>14</b>
<b>% of subtotal</b>	<b>16</b>

Enforcement

<u>Subtotal</u>	<u>13</u>
<u>% of total</u>	<u>15</u>

Pre-Application Conferences

<u>Subtotal</u>	<u>28</u>
<u>% of subtotal</u>	<u>15</u>
<b>TOTAL</b>	<b>89</b>

Educational Training

Projects in this category accounted for 31% of the total workload. Projects include review of a stormwater management case, a landfill closing plan, and several inspections of licensed, operating landfills. Due to the nature of enforcement issues, much of the time spent on these projects was in the field.

Educational Training

Educational training is essential to effectively do technical reviews of the wide variety of projects which fall under the site law. During the reporting period, ten short courses/training sessions were attended. These sessions included information regarding erosion and sedimentation control, computers, landfills, soils, as well as a number of sessions regarding laws administered by the Land Bureau.

Case History

The following case history is representative of the projects reviewed by the Assistant Engineer. The unusual aspect of this project was that it included support for both the Licensing and Enforcement Divisions.

Willow Grove Subdivision, Brunswick

In March, Verrier Construction Company submitted an application for Willow Grove subdivision which was to be located off Mcker Street in Brunswick. The application was for 87 single family homes on 31 acres in 9 separate phases. After reviewing the application, staff discovered that the consultant estimated that this project would cause a 45 cfs increase in stormwater runoff at the peak hour. The consultant had proposed to route this stormwater runoff to an existing detention basin at the Woodsides subdivision, which is located to the south of Willow Grove. The problem with this proposal was that Woodsides subdivision was a DEP approved subdivision that already had some very significant problems with their stormwater detention basin.

In June, summarized review comments and additional information required was sent to the project manager concerning the proposed modifications to the Woodside detention basin. In response to the Engineer's comments, the applicant submitted design plans and specifications concerning the stormwater management plan.

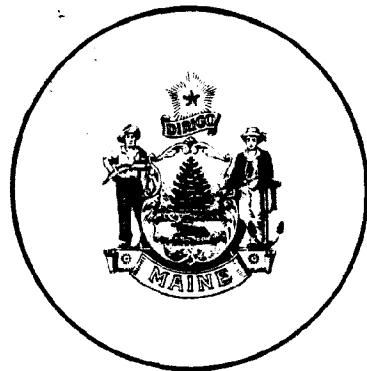
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